



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

वीरवार, 13 अप्रैल, 2023 / 23 चैत्र, 1945

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated 23rd February, 2023

No. Shram (A) 3-2/2023 (Awards) L.C. Shimla.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to

order the publication of awards of the following cases announced by the Presiding Judge, Labour Court, Shimla on the website of the Printing & Stationery Department, Himachal Pradesh *i.e.* “e-Gazette” :—

Sl. No.	Ref. No.	Petitioner	Respondent	Date of Award/Order
1.	Ref. 171/2022	Sh. Sunil Kumar	Bal Bahrti Public School, Solan	01-12-2022
2.	Ref. 142/2018	Sh. Sandeep Upadhyay	M/s Dainik Bahaskar Chandigarh & Anr.	01-12-2022
3.	Ref. 157/2020	Ms. Urmila Devi	M/s Manju Shree Technpack Ltd.	01-12-2022
4.	Ref. 158/2020	Ms. Reena Devi	M/s Manju Shree Technpack Ltd.	01-12-2022
5.	Ref. 79/2017	Sh. Hem Raj Rana	M/s Paragreen (P) Ltd. & Anr.	01-12-2022
6.	Ref. 162/2021	Sh. Parveen Kumar	Eastman Auto & Power	01-12-2022
7.	Ref. 02/2011	Sh. Raghvinder Singh	Wrigley India (P) Ltd.	01-12-2022
8.	Ref. 31/2021	Sh. Mahesh Kumar	M/s Penguin Electronics Ltd.	01-12-2022
9.	Ref. 32/2021	Sh. Ajay Kumar	M/s Penguin Electronics Ltd.	01-12-2022
10.	Ref. 37/2021	Sh. Pawan Kumar	M/s Penguin Electronics Ltd.	01-12-2022
11.	Ref. 41/2021	Sh. Kuldeep Chand	M/s Penguin Electronics Ltd.	01-12-2022
12.	Ref. 73/2021	Sh. Mona	M/s Penguin Electronics Ltd.	01-12-2022
13.	Ref. 75/2021	Sh. Kapil	M/s Penguin Electronics Ltd.	01-12-2022
14.	Ref. 86/2021	Sh. Mehar Chand	M/s Penguin Electronics Ltd.	01-12-2022
15.	Ref. 93/2021	Sh. Het Ram	M/s Penguin Electronics Ltd.	01-12-2022
16.	Ref. 110/2021	Sh. Pritam Singh	M/s Penguin Electronics Ltd.	01-12-2022
17.	Ref. 168/2021	Sh. Joginder Singh	M/s Penguin Electronics Ltd.	01-12-2022
18.	Ref. 171/2021	Sh. Lovenish	M/s Penguin Electronics Ltd.	01-12-2022
19.	Ref. 176/2021	Sh. Jaswinder Singh	M/s Penguin Electronics Ltd.	01-12-2022
20.	Ref. 177/2021	Sh. Puran Lal	M/s Penguin Electronics Ltd.	01-12-2022
21.	Ref. 213/2021	Sh. Chandan Singh	M/s Penguin Electronics Ltd.	01-12-2022
22.	Ref. 218/2021	Sh. Virender Kumar	M/s Penguin Electronics Ltd.	01-12-2022
23.	Ref. 219/2021	Sh. Balwinder Singh	M/s Penguin Electronics Ltd.	01.12.2022
24.	Ref. 222/2021	Sh. Kapil Dev	M/s Penguin Electronics Ltd.	01-12-2022
25.	Ref. 227/2021	Sh. Pawan Kumar	M/s Penguin Electronics Ltd.	01-12-2022
26.	Ref. 230/2021	Sh. Dharampal	M/s Penguin Electronics Ltd.	01-12-2022
27.	Ref. 231/2021	Sh. Shammi Kumar	M/s Penguin Electronics Ltd.	01-12-2022
28.	Ref. 237/2021	Sh. Jitender Singh	M/s Penguin Electronics Ltd.	01-12-2022
29.	Ref. 239/2021	Sh. Lalit Kumar	M/s Penguin Electronics Ltd.	01-12-2022
30.	Ref. 241/2021	Sh. Kulwant Singh	M/s Penguin Electronics Ltd.	01-12-2022
31.	Ref. 243/2021	Sh. Husan Chand	M/s Penguin Electronics Ltd.	01-12-2022
32.	Ref. 246/2021	Sh. Ajay Kumar Yadav	M/s Penguin Electronics Ltd.	01-12-2022

33.	Ref. 247/2021	Sh. Munish Kumar	M/s Penguin Electronics Ltd.	01-12-2022
34.	Ref. 248/2021	Sh. Gaurav Verma	M/s Penguin Electronics Ltd.	01-12-2022
35.	Ref. 272/2021	Sh. Virender Singh	M/s Penguin Electronics Ltd.	01-12-2022
36.	Ref. 274/2021	Sh. Dalip Singh Rana	M/s Penguin Electronics Ltd.	01-12-2022
37.	Ref. 275/2021	Sh. Kamaljeet Singh	M/s Penguin Electronics Ltd.	01-12-2022
38.	Ref. 282/2021	Sh. Praveen Kumar	M/s Penguin Electronics Ltd.	01-12-2022
39.	Ref. 284/2021	Smt. Kamlesh Kumari	M/s Penguin Electronics Ltd.	01-12-2022
40.	Ref. 24/2022	Sh. Amardeep Singh	M/s Penguin Electronics Ltd.	01-12-2022
41.	Ref. 26/2022	Smt. Babita Devi	M/s Penguin Electronics Ltd.	01-12-2022
42.	Ref. 25/2022	Sh. Jaswinder Singh	M/s Penguin Electronics Ltd.	01-12-2022

By order,

Sd/-
(AKSHAY SOOD),
Secretary (Lab. & Emp.).

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 171 of 2022

Instituted on : 01-07-2022

Decided on : 01-12-2022

Sunil Kumar s/o Shri Atma Ram, r/o Village Roog, PO Depthi Majhgaon, Tehsil Rajgarh,
District Sirmour, H.P. . .Petitioner.

VERSUS

The Secretary M/s Bal Bharti Public School (an institution of child education society regd.)
Gladly Dhank, PO Oachghat, Tehsil & District Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For Petitioner : Shri J. C. Bhardwaj, AR.

For Respondent : Shri Anil Sharma, AR.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 02.04.2022, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether termination of services of Shri Sunil Kumar s/o Shri Atma Ram, r/o Village Roog, PO Depthi Majhgaon, Tehsil Rajgarh, District Sirmour, H.P. w.e.f. 09.06.2020 by the Secretary M/s Bal Bharti Public School (an institution of child education society regd.)

GladyDhank, PO Oachghat, Tehsil & District Solan, HP without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"

2. On receipt of the said reference from the Appropriate Government, notices were issued to the concerned parties in pursuance to which the petitioner has appeared through Shri J. C. Bhardwaj, AR whereas Shri Anil Sharma, AR has appeared on behalf of the respondent.

3. To the fore, Shri Anil Sharma, Administrator of respondent school stated that the dispute interse the parties stood amicably resolved and settled, as a result of which the respondent school had agreed to make full & final settlement amount or ₹ 1,95,000/- to the petitioner in lieu of reinstatement, back-wages, seniority, past service benefits and compensation. Nothing survive in the present petition. He also placed on record memorandum of settlement (PY) and copy of cheque no. 001127 dated 19.10.2022 (PZ) on record. The statement is read over and explained to him. To this effect, his statement recorded separately.

4. The petitioner Shri Sunil Kumar, vide his separate statement, has stated that since the matter stood amiably resolved and settled between the parties as the respondent school had agreed to pay a sum of ₹ 1,95,000/- (One lakhs Ninety Five Thousand) as full and final compensation to him in lieu of reinstatement, seniority, continuity and back-wages which is acceptable to him, hence, nothing is due from the respondent and as such he does not want to proceed further with the present reference which may kindly be decided accordingly. The statement of Shri Anil Sharma is read over and explained to him which is duly acceptable.

5. Thus, keeping in view the attendant facts and circumstances of the case *vis- a -vis* perusal of the case record manifestly and conclusively goes to demonstrates that the Industrial Dispute raised from the side of the late petitioner stood amicably resolved and finally compromised between the parties and the respondent has agreed to pay a sum of ₹ 1,95,000/- (One lakhs Ninety Five Thousand) as full and final settlement amount of the claim. From the aforesaid statements of the parties, it is apparently established that the parties have compromised the industrial dispute arising out of reference no. 171 of 2022.

6. Since, the matter stood amicably resolved and settled between the parties by way of amicable settlement, therefore, nothing survives in the present industrial dispute. Consequently, the industrial dispute raised by the petitioner stood amicably settled to which the petitioner has been fully & finally compensated. The Respondent company is directed to pay agreed amount *i.e.* ₹ 1,95,000/- (One lakhs Ninety Five Thousand), which has been paid through cheque no. 001127 dated 19.10.2022, today in the Court itself before me.

7. The reference is answered accordingly and the award is passed as per the statements of parties, memorandum of settlement (PY) and copy of cheque (PZ), shall form the integral part and parcel of this award.

8. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Sd/-

Announced:
01-12-2022

(RAJESH TOMAR)
Presiding Judge,
Labour Court, Shimla.

**IN THE COURT OF SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 142 of 2018

Instituted on : 02-08-2018

Decided on : 01-12-2022

Sandeep Upadhyay S/o Shri R.M. Upadhyay, Ex-News Editor, Dainik Bhaskar, Flat No.3, Block No.16, Housing Board Colony, Flower Dale, Chotta Shimla, H.P. . .*Petitioner.*

VERSUS

1. M/s Dainik Bhaskar, DB Corp. Ltd. Regional Business Office, Plot No. 11-12, Sector 25-D, Chandigarh (UT).

2. M/s Dainik Bhaskar Office, Malbrow house DPRO Office, Chotta Shimla -2, H.P. . .*Respondents.*

Reference under section 17 of the Working Journalists and Other Newspaper Employees (Conditions of Service) Act, 1955.

For the Petitioner : Shri B.B. Lal, Adv.

For the Respondent : Shri Virender Gautam, Adv.

AWARD

The following reference petition has been, received from the Labour Officer, Shimla, vide notification dated 21.04.2018, under section 17 of the Working Journalists and Other Newspaper Employees (Conditions of Service) Act, 1955 (hereinafter referred to be as the Act), for its legal adjudication, which reads as under:

“Whether the action of the employers M/s Dainik Bhaskar, DB Corp. Ltd Regional Business Office, Plot No. 11-12, Sector 25-D, Chandigarh (UT) and M/s Dainik Bhaskar Office, Malbrow house DPRO Office, Chotta Shimla -2, HP for not paying claim of arrears amounting as per Majithia Wage Board to Shri Sandeep Upadhyay S/o Shri R.M. Upadhyay, Ex-News Editor, Dainik Bhaskar, Flat No.3, Block No.16, Housing Board Colony, Flower Dale, Chotta Shimla, HP as difference of wages actually drawn and due as per recommendation of Majithia Wage Boards (copy of claim enclosed) constituted under section 9 & 13(C) of the Working Journalists and Other Newspaper Employees (Conditions of Service) Act, 1955 is legal and justified? If yes, to what amount of relief/arrear, alongwith interest etc., the aggrieved employee is entitled to from the above employers/ management ?”

2. Key facts necessary for the disposal of the present reference petition as alleged by the petitioner in the statement of claim are thus that he was employed by the respondents as Sub Editor/Reporter vide letter dated 14.04.2008 and his services have been transferred to Shimla w.e.f. December, 2011 and he worked with the respondents till his forced resignation (accepted on 02.11.2017) at Shimla. The respondents have not implemented the recommendations of the previous wage boards. The salary slips of petitioners shows that the respondents were not paying the wages before November 2011 as per the recommendations of the previous wage board called

Manisana Wage Board and interim relief as notified by the Government of India. Thus, as per salary slip of November/December 2011 for calculation of Existing Emoluments basic pay is Rs. 12000/- per month. Special allowance is Rs. 21039 and interim relief @ 30% of old basis is Rs. 3600/- and as such existing emoluments ought to be Rs. 36639/- and in terms of clause 20(b) and (d) new basic as per recommendations of Majithia Wage Board ought to be Rs. 38105/-. Gross pay ought to be Rs. 80767/- after adding variable pay, DA, HRA, TA, Medical Allowance, Hardship Allowance and New PF. Thus, the petitioner is entitled to difference of arrears, which comes to Rs. 9546023/- from the respondents.

3. The following prayer clause has been appended, in the footnote of the petition, which reads as under:

“In view of the submissions made herein above, the claimant/workman most respectfully prays that this Hon’ble Court may be pleased to allow the claim of the claimant of ₹ 9546023/- (Rs. Ninety Five Lakhs Forty Six Thousand and Twenty Three) or of the amount as it may deem proper and correct as per pleadings above and annexed to this statement of claim. This Hon’ble Court may be further pleased to pass any other order or orders as it may deem fit and proper in the facts and circumstances of the case.”

4. The lis was resisted and contested by respondent by filing written reply on inter-alia preliminary objections of maintainability, not come to the Court with clean hand, not legal reference, bad in law, non-application of mind by the Labour Commissioner.

5. On merits, it is submitted that the petitioner has resigned from service with his sweet will from the position of State Editor. The petitioner is not entitled to any amount and interest. The petitioner is also not entitled for the arrear of the interim relief from 8.1.2008 to 10.11.2011 as the petitioner has submitted false calculation sheet before this Tribunal. It is therefore prayed that the claim petition filed by the petitioner may kindly be dismissed.

6. While filing rejoinder, the petitioner controverted the averments made thereto in the reply filed by respondents and reaffirmed and reiterated those raised in the claim petition.

7. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 24.06.2019, as under:

1. Whether the petitioner is entitled to revised wages as per the recommendations of Majithia Wage Board and is thus entitled to arrears amounting to ₹ 9546023/- (Ninety Five Lac Forty Six Hundred and Twenty Three only) as alleged? If so, to what relief the petitioner is entitled to? . . .*OPP.*
2. Whether the petitioner does not fall under the definition of worker as per the Industrial Disputes Act, as alleged. If so, its effect thereto? . . .*OPR.*
3. Whether the claim is bad for mis-joinder of necessary parties, as alleged. If so, to what effect? . . .*OPR.*
4. Whether the petition is not maintainable in view of the para 20-J of the Majithia Wage Board recommendations having opted to retain the existing wages, as alleged. If so to what effect? . . .*OPR.*
5. Whether the claim petition is time barred, as alleged. If so to what effect? . . .*OPR.*
6. Relief

8. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

9. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

10. For the reasons to be recorded hereinafter while discussing points for determination, my findings on the aforesaid issues are as under:

Issue No.1 No

Issue No. 2 No

Issue No. 3 No

Issue No. 4 No

Issue No. 5 No

Relief. Reference petition is answered in negative as per operative part of the award.

REASONS FOR FINDINGS

ISSUES NO.1 , 2 & 4

11. All these issues are intermingled and inter connected, as mutually existed and required the common appreciation of evidence, being taken up together for the purpose of their determination and adjudication.

12. It is particular to mention herein that this Court vide order dated 17.5.2022, observed that the case is listed for entire evidence of the petitioner since 11.9.2019. A period of approximately two and half years has already been elapsed. This Court afforded as many as 17 (seventeen) opportunities to the petitioner. Sufficient opportunities were afforded to the petitioner. The Ld. Counsel for the petitioner apprised to the fact that it be treated as last opportunity. No further opportunity shall be granted for recording the evidence of the petitioner. Despite the fact petitioner witnesses were not examined on behalf of the petitioner. Subsequently, this Court vide order dated 05.08.2022, has ordered that no witness are present despite the last opportunity on behalf of the petitioner. The Ld. Counsel for the petitioner prayed some more time for recording the evidence on behalf of the petitioner, the prayer is declined. The Ld. Counsel for the petitioner has already been apprized of the fact that sufficient opportunities were afforded and it be treated as last opportunity failing which shall automatically deemed to be closed. The perusal of case record would revealed that the case is listed for entire evidence of th petitioner since 08.01.2019 a period of approximately three years seven months has already been elapsed. This Court afforded as many as 18 (eighteen) opportunities to the petitioner. Sufficient opportunities were afforded to the petitioner. No further opportunity shall be granted for recording the evidence of the petitioner. Therefore, this Court is left with no other alternative but to close the evidence of the petitioner by the order of the Court and accordingly the same is hereby ordered to be closed. Shri Virender Chauhan, Ld. Cousnel for the respondent do not want to adduce any evidence on behalf of respondents management. Statement to this effect has been recorded separately.

13. More particularly, it is the bounded duty of the petitioner to prove his case by leading cogent and clinching evidence. Petitioner is the master of his own case and he cannot taken any undue advantages of the weaknesses of the respondents. It is the petitioner who alleges must prove his case before this Court. In the absence of any cogent and clinching proof, both in shape of oral and documentary, leads to this Court to held that the petitioner is not entitled to revised wages as per the recommendations of Majithia Wage Board and is thus entitled to arrears amounting to ` 9546023/- (Ninety Five Lac Forty Six Hundred and Twenty Three only) as alleged, the petitioner does fall under the definition of worker as per the Industrial Disputes Act, as alleged and the petition is maintainable in view of the para 20-J of the Majithia Wage Board recommendations having opted to retain the existing wages, as alleged.

14. For the foregoing reasons, in view of discussion and finding arrived at by me hereinbefore, the present reference is ordered to be answered in negative as all the aforesaid issues are answered in negative.

ISSUE NO. 2 & 5

15. Both these issues are intermingled and inter connected, as mutually existed and required the common appreciation of evidence, being taken up together for the purpose of their determination and adjudication.

16. In support of these issues no specific evidence has been led by the respondents, which could go to show that as to how the petitioner doesn't fall under the definition of worker as per the Industrial Disputes Act and that the claim is time barred. Therefore, in view of no evidence led from the side of the respondents, both these issues are decided against the respondents.

RELIEF

17. As a sequel to my above discussion and findings on issues no.1 to 5, the claim of the petitioner deserve dismissal and the same is accordingly dismissed. Resultantly, the reference stands answered in negative. Let a copy of this award be communicated to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**IN THE COURT OF SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 157 of 2020

Instituted on : 11-08-2020

Decided on : 01-12-2022

Urmila Devi W/o Shri Gaurav Singh C/o Smt. Swaran kaur, House No. 120 Room No. 5
Shivalik Nagar, Barotiwala, Tehsil Baddi, District Solan, H.P. . .Petitioner.

VERSUS

Manjushree Technopack Limited, Plot No. 70 & 71 B, 76 & 71 A EPIP Phase-1, Jharmajri,
Tehsil Baddi, District Solan, HP through its Managing Director . .Respondents.

Reference under section 10 of the Industrial Disputes Act

For the Petitioner : Shri Suresh Kashyap, Adv.

For the Respondent : Shri Rajiv Sharma, Adv.

AWARD

The following reference petition has been, received from the Appropriate Government, vide notification dated 23.07.2020, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication, which reads as under:

“Whether the termination of the services of Smt. Urmila Devi w/o Shri Gaurav Singh C/o Smt. Swaran kaur, House No. 120 Room No. 5 Shivalik Nagar, Barotiwala, Tehsil Baddi, District Solan, HP by the Managing Director M/s Manjushree Technopack Limited, Plot No. 70 & 71 B, 76 & 71 A EPIP Phase-1, Jharmajri, Tehsil Baddi, District Solan, HP w.e.f. 29.04.2020 without complying with the provisions of the Industrial Disputes Act 1947, as alleged by the workman, is legal and justified? If not, what relief including reinstatement, amount of back-wages, seniority past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. To the fore, Smt. Urmila Devi (hereinafter to be referred as the petitioner) has instituted the claim petition against M/s Manjushree Technopack Limited, Plot No. 70 & 71 B, 76 & 71 A EPIP Phase-1, Jharmajri, Tehsil Baddi, District Solan (hereinafter to be referred as respondent), under the provisions of the Act.

3. Key facts necessary for the disposal of the present reference petition as alleged by the petitioner in the statement of claim are thus that the petitioner was working as a workman for last nine years on monthly salary of ₹ 9,000/- per month. The services of the petitioner were terminated on 20.04.2020 without lawful reason or conducting any enquiry. No notice under section 25-F of the Act nor paid 15 days advance salary to the petitioner. The respondent had indulged in unfair labour practice and did not pay the salary for the month of March and April, 2020 and over time to the petitioner. The petitioner have completed 240 days in a calendar year. The Labour and Conciliation Officer tried his level best to settle the matter. The termination is in violation of the mandatory provisions of the Act.

4. The following prayer clause has been appended, in the footnote of the petition, which reads as under:

“It is, therefore, most respectfully prayed that this Hon’ble Court/Tribunal be pleased to allow the petition and the respondent may kindly be directed to reinstate the services of the petitioner along-with all consequential benefits i.e back-wages, seniority and other benefits etc., in the interest of justice and fair play.

Any other or further relief as is deemed just and proper in the facts and circumstances of the case may also be granted in favour of the petitioner besides the costs of the proceedings, which would be expedient in the interest of the justice”

5. The lis was resisted and contested by respondent by filing written reply on inter-alia preliminary objections of maintainability, not come to the Court with clean hand, not legal reference, bad in law, non application of mind by the Labour Commissioner and the respondent paid to the petitioner full and final financial dues i.s a sum of Rs. 22,917/-.

6. On merits, it is submitted that the petitioner tendered her resignation out of her sweet will on 29.4.2020, which was accepted by the respondent and thereafter paid the full & final amount of Rs. 22,917/-. The gratuity amount of Rs. 25,966/- was also paid. Both the amounts were transferred in the account of the petitioner. The allegation of unfair labour practice are totally false. The claim is an afterthought to build up the pressure. As a matter of fact, on 28.4.2020, the petitioner was caught red handed by security guard while she was carrying two tiffin boxes in her bag after stealing from the manufacturing area. The security guard reported the matter in writing to the HR Department of the factory upon which the petitioner made her confession to the officers of the respondent and requested not to call the Police. In order to save her carrier the petitioner submitted her resignation letter knowing well that the act of stealing/theft in a factory where the petitioner is working if will come to the knowledge of the workers and staff then this happening will tarnish the image of the petitioner as she has committed a wrong while stealing/theft of the product i.e tiffin boxes for her personal use and her services shall be dismissed by the factory, hence the petitioner submitted her resignation. It is therefore prayed that the claim petition filed by the petitioner may kindly be dismissed.

7. No rejoinder has been filed.

8. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 01.11.2021, as under:

1. Whether the termination of the petitioner by the respondent without compliance of the provisions of the Industrial Disputes Act, is illegal and unjustified? . . .*OPP*.
2. If issue no.1 is proved in affirmative than what relief the petitioner is entitled? . . .*OPP*.
3. Whether the claim is not maintainable in the present form as alleged? . . .*OPR*.
4. Relief

9. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

10. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

11. For the reasons to be recorded hereinafter while discussing points for determination, my findings on the aforesaid issues are as under:

Issue No.1	Yes
Issue No. 2	Entitled to lump sum compensation of Rs. 30,000/-.
Issue No. 3	No
Relief	Reference is partly allowed as per operative part of the award.

REASONS FOR FINDINGS

ISSUES NO.1 & 2.

12. Both these issues are intermingled and inter connected, as mutually existed and required the common appreciation of evidence, being taken up together for the purpose of their determination and adjudication.

13. In order to substantiate its case, the petitioner has appeared in the witness box as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he reiterated almost all the averments as made in the claim petition.

14. In cross-examination, she admitted that prior to the respondent management, she was working with Varahi Ltd. and thereafter she joined the respondent company and worked till 29.04.2020 on monthly salary of Rs. 9,200/-. She admitted that they were frisking at the time of entering or leaving factory premises. She denied that she was paid full & final settlement amount by the respondent. She denied that she tendered her resignation to the respondent. She further denied that the gratuity amount was also paid to her. She denied that at the time of frisking by the security guard, she was found in possessions stolen property i.e tiffin box manufactured inside the factory. She denied that she resigned out of her own will.

15. In order to rebut, the respondent has examined Shri Mahinder Singh, AGM of the respondent company as (RW-1), who tendered in evidence his sworn in affidavit (RW-1/A), wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence resignation letter (RW-1/B), full & final payment (RW-1/C), letter dated 29.4.2020 (RW-1/D), complaint 4.12.2020 (RW-1/E), complaint 5.5.2020 Mark RX-1.

16. In cross-examination, he admitted that no notice or enquiry was issued/conducted to the petitioner before termination. He admitted that the junior persons to the petitioner are working in the company. He admitted that no report in the Police regarding the theft was lodged. He denied that no dues were paid to the petitioner.

17. Shri Vivek Gupta, Security Guard of respondent company has appeared into the witness dock as (RW-2), and tendered into evidence his sworn-in affidavit (RW-2/A), wherein he reiterated almost all the averments as made in the reply.

18. In cross-examination, he denied that at the time of alleged incident, he was not on duty. He admitted that each and every employee is amenable for regular frisking. He admitted that no witness was associated about the alleged incident.

19. This is the entire oral as well as documentary evidence adduced from the side of the parties.

20. Shri Suresh Kashyap, Advocate for the petitioner has contended with all vehemence that the services of the petitioner have been terminated by the respondent company by leveling false allegations of theft. The petitioner had completed more than 240 days in each and every calendar year, hence, her termination without complying with the provisions of the Act, is illegal and unjustified. He prayed that the services of the petitioner may kindly be reinstated with seniority and continuity along-with full back-wages.

21. *Per contra*, Shri Rajiv Sharma, Ld. Counsel for the respondent has contended that the services of the petitioner have not been terminated by the respondent. In fact, she tendered her

resignation wilfully as she was caught red handed by the security guard at the time of routine while stealing the tiffin boxes from the company. She requested the respondent management not to report the matter to the Police and tendered her resignation. The respondent management after paying her full and final settlement amount accepted her resignation. He prayed for the dismissal of the claim petition.

22. I have given my best anxious considerable thought to the respective submissions of the Learned Counsel for the parties and have also scrutinized the entire case record with minute care, caution and circumspection.

23. Verily, the engagement of the petitioner by varahi Ltd. On 01.04.2014, the company which was taken over by the respondent later on was not a denying fact. The petitioner had been working with the present management as worker on gross salary of Rs. 9200/- per month. The petitioner had herself left the job by tendering her resignation out of her own sweet will and consent. Admittedly, the petitioner had completed 240 working days in a calendar year. The petitioner had duly admitted that she was paid full & final settlement amount at the time of her termination. Though, she had denied that on 28.4.2020, the security guard during usual freesking found her in possession of stolen property i.e two tiffin boxes. She had denied that the resignation was tendered out of her own will.

24. A plea was taken by the respondent that the petitioner was indulged in an act of misconduct by committing theft and found in possession of stolen property. The petitioner had herself tendered the resignation out of her free will and volition. It is well known that the resignation once tendered and accepted cannot be withdrawn later on. There is nothing on record to show that a notice was served upon the petitioner by the respondent calling upon to offer her reply to the explanation of involving in an act of theft. Admittedly, no disciplinary proceedings were intitled against the petitioner for her alleged involvement in the commission of theft. It appears from the substantive evidence of (RW-2) Shri Vivek Gupta that he was discharging his duty from 6.30 PM to 6.30 AM. He intimated his seniors orally regarding the alleged incident of theft. He admitted that no Police report was lodged. Similarly, Mahinder Singh (RW-1) stated that the petitioner herself tendered her resignation. He admitted that the junior persons to the petitioner are working in the company. He denied that the respondent company engaged another workers after their termination/resignation. He admitted that no report in the Police regarding the theft was lodged. Volunteered that the petitioner had confessed her guilt in the presence of security guard.

25. In the back-drop of aforesaid events, it is held that the termination of the petitioner was in violation of the provisions of Sections 25-B and 25-F of the Act. The termination is held to be illegal, unlawful and unjustified.

26. In the instant case, looking into the entire facts and circumstances of the case, bearing in mind the resignation tendered by the petitioner, Ld. Counsel for the parties during the course of argument had agreed to settle the dispute inter se by making further lump sum compensation, whereby Ld. Counsel for the respondent had offered to pay a of Rs. 30,000/- on account of her reinstatement, back-wages, seniority, past service benefits and compensation. Admittedly, the documentary proof placed on record from the side of respondent depicts that the respondent company had lost faith, confidence in the petitioner. The mutual trust faith and confidence are the backbone of the employer-employee relationship. According to the respondent the petitioner indulged in an incident of theft of tiffin boxes from its manufacturing plant and she was caught red handed. Though, there is a complete denial on the part of the petitioner but the resignation tendered by her would substantiate the case of the respondent. Since, the parties had reached to an inescapable conclusion of settling the matter by making full & final payment of Rs. 30,000/- by the respondent company as such, the petitioner is held entitled for lump sum monetary compensation in

full and final satisfaction of her claim of reinstatement and other consequential benefits. In the case in hand, the factors which have weighed are that the petitioner had remained engaged with the respondent for approximately nine years.

27. For the foregoing reasons, in view of discussion and finding arrived at by me hereinbefore, a lump sum compensation of Rs. 30,000/- (Thirty Thousand) would be an appropriate relief to which the petitioner is entitled to in the facts and circumstances of given case. It is further made clear that the amount of compensation shall be paid within three months from the date of receipt of the award, failing which the petitioner would be entitled to interest @ 9% per annum from the date of the award till its actual realization.

ISSUE NO.3

28. In order to prove this issue, no specific evidence has been led from the side of the respondent, which could go to show as to how the present petition has not been maintainable. Moreover, the present petition has been filed by the petitioner pursuant to reference received from the appropriate government for legal adjudication. I find no illegality in the present petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in favour of the petitioner and against the respondent.

RELIEF

29. As a sequel to my above discussion and findings on issues no.1 to 3, the claim of the petitioner succeeds and is hereby partly allowed and the petitioner is awarded lump sum compensation of Rs. 30,000/- (Thirty Thousand), to be paid by the respondent, within a period of two months from the date of announcement of the award, failing which interest at the rate of 9% (nine percent) would be payable by the respondent to the workman. The reference is disposed off in the aforesaid terms. Let a copy of this award be communicated to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-

(RAJESH TOMAR)
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 158 of 2020
Instituted on : 11-08-2020
Decided on : 01-12-2022

Reena Devi w/o Shri Rohit Maurya C/o Shri Dhanu Ram, Village Jharmajri, Barotiwal, P.O. Barotiwal, Tehsil Baddi, District Solan, H.P. . .Petitioner.

VERSUS

Manjushree Technopack Limited, Plot No. 70 & 71 B, 76 & 71 A EPIP Phase-1, Jharmajri, Tehsil Baddi, District Solan, HP through its Managing Director. . Respondents.

Reference under section 10 of the Industrial Disputes Act

For the Petitioner : Ms. Rani Thakur, Adv.

For the Respondent : Shri Rajiv Sharma, Adv.

AWARD

The following reference petition has been, received from the Appropriate Government, *vide* notification dated 23.07.2020, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication, which reads as under:

“Whether the termination of the services of Smt. Reena Devi W/o Shri Rohit Maurya C/o Shri Dhanu Ram, Village Jharmajri, Barotiwala, Po Barotiwala, Tehsil Baddi, District Solan, HP by the Managing Director M/s Manjushree Technopack Limited, Plot No. 70 & 71 B, 76 & 71 A EPIP Phase-1, Jharmajri, Tehsil Baddi, District Solan, HP w.e.f. 29.04.2020 without complying with the provisions of the Industrial Disputes Act 1947, as alleged by the workman, is legal and justified? If not, what relief including reinstatement, amount of back-wages, seniority past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. To the fore, Smt. Reena Devi (hereinafter to be referred as the petitioner) has instituted the claim petition against M/s Manjushree Technopack Limited, Plot No. 70 & 71 B, 76 & 71 A EPIP Phase-1, Jharmajri, Tehsil Baddi, District Solan (hereinafter to be referred as respondent), under the provisions of the Act.

3. Key facts necessary for the disposal of the present reference petition as alleged by the petitioner in the statement of claim are thus that the petitioner was working as a workman for last five years on monthly salary of ₹ 9,000/- per month. The services of the petitioner were terminated on 29.04.2020 without lawful reason or conducting any enquiry. No notice under section 25-F of the Act nor paid 15 days advance salary to the petitioner. The respondent had indulged in unfair labour practice and did not pay the salary for the month of March and April, 2020 and over time to the petitioner. The petitioner have completed 240 days in a calendar year. The Labour and Conciliation Officer tried his level best to settle the matter. The termination is in violation of the mandatory provisions of the Act.

4. The following prayer clause has been appended, in the footnote of the petition, which reads as under:

“It is, therefore, most respectfully prayed that this Hon’ble Court/Tribunal be pleased to allow the petition and the respondent may kindly be directed to reinstate the services of the petitioner along-with all consequential benefits i.e back-wages, seniority and other benefits etc., in the interest of justice and fair play.

Any other or further relief as is deemed just and proper in the facts and circumstances of the case may also be granted in favour of the petitioner besides the costs of the proceedings, which would be expedient in the interest of the justice”

5. The lis was resisted and contested by respondent by filing written reply on inter-alia preliminary objections of maintainability, not come to the Court with clean hand, not legal reference, bad in law, non-application of mind by the Labour Commissioner and the respondent paid to the petitioner full and final financial dues *i.e.* a sum of Rs. 17011/-.

6. On merits, it is submitted that the petitioner tendered her resignation out of her sweet will on 29.4.2020, which was accepted by the respondent and thereafter paid the full & final amount of Rs. 17011/-. The allegation of unfair labour practice are totally false. The claim is an afterthought to build up the pressure. As a matter of fact, on 28.4.2020, the petitioner was caught red handed by security guard while she was carrying two tiffin boxes in her bag after stealing from the manufacturing area. The security guard reported the matter in writing to the HR Department of the factory upon which the petitioner made her confession to the officers of the respondent and requested not to call the Police. In order to save her carrier the petitioner submitted her resignation letter knowing well that the act of stealing/theft in a factory where the petitioner is working if will come to the knowledge of the workers and staff then this happening will tarnish the image of the petitioner as she has committed a wrong while stealing/theft of the product i.e tiffin boxes for her personal use and her services shall be dismissed by the factory, hence the petitioner submitted her resignation. It is therefore prayed that the claim petition filed by the petitioner may kindly be dismissed.

7. No rejoinder has been filed.

8. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 01.11.2021, as under:

1. Whether the termination of the petitioner by the respondent without compliance of the provisions of the Industrial Disputes Act, is illegal and unjustified? . . .*OPP*.
2. If issue no.1 is proved in affirmative than what relief the petitioner is entitled? . . .*OPP*.
3. Whether the claim is not maintainable in the present form as alleged? . . .*OPR*.
4. Relief

9. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

10. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

11. For the reasons to be recorded hereinafter while discussing points for determination, my findings on the aforesaid issues are as under:

Issue No.1	Yes
Issue No.2	Entitled to lump sum compensation of Rs. 30,000/-
Issue No.3	No
Relief	Reference is partly allowed as per operative part of the award

REASONS FOR FINDINGS

ISSUES NO.1 & 2.

12. Both these issues are intermingled and inter connected, as mutually existed and required the common appreciation of evidence, being taken up together for the purpose of their determination and adjudication.

13. In order to substantiate its case, the petitioner has appeared in the witness box as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he reiterated almost all the averments as made in the claim petition.

14. In cross-examination, she admitted that she was working with Varahi Ltd. upto 2016. She denied that she tendered her resignation Mark RX out of her sweet will and voluntarily. She admitted to have credited an amount of Rs. 17011/- as full & final amount in her account. She denied that at the time of frisking by the security guard, she was found in possessions stolen property i.e tiffin box manufactured inside the factory.

15. In order to rebut, the respondent has examined Shri Mahinder Singh, AGM of the respondent company as (RW-1), who tendered in evidence his sworn in affidavit (RW-1/A), wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence resignation letter (RW-1/B), full & final payment (RW-1/C), letter dated 29.4.2020 (RW-1/D), complaint 4.12.2020 (RW-1/E), complaint 5.5.2020 Mark RX-1.

16. In cross-examination, he admitted that no notice or enquiry was issued/conducted to the petitioner before termination. He admitted that the junior persons to the petitioner are working in the company. He admitted that no report in the Police regarding the theft was lodged. He denied that no dues were paid to the petitioner.

17. Shri Vivek Gupta, Security Guard of respondent company has appeared into the witness dock as (RW-2), and tendered into evidence his sworn-in affidavit (RW-2/A), wherein he reiterated almost all the averments as made in the reply.

18. In cross-examination, he denied that at the time of alleged incident, he was not on duty. He admitted that each and every employee is amenable for regular frisking. He admitted that no witness was associated about the alleged incident.

19. This is the entire oral as well as documentary evidence adduced from the side of the parties.

20. Ms. Rani Thakur, Advocate for the petitioner has contended with all vehemence that the services of the petitioner have been terminated by the respondent company by leveling false allegations of theft. The petitioner had completed more than 240 days in each and every calendar year, hence, her termination without complying with the provisions of the Act, is illegal and unjustified. He prayed that the services of the petitioner may kindly be reinstated with seniority and continuity along-with full back-wages.

21. *Per contra*, Shri Rajiv Sharma, Ld. Counsel for the respondent has contended that the services of the petitioner have not been terminated by the respondent. In fact, she tendered her resignation wilfully as she was caught red handed by the security guard at the time of routine while stealing the tiffin boxes from the company. She requested the respondent management not to report the matter to the Police and tendered her resignation. The respondent management after paying her

full and final settlement amount accepted her resignation. He prayed for the dismissal of the claim peition.

22. I have given my best anxious considerable thought to the respective submissions of the Learned Counsel for the parties and have also scrutinized the entire case record with minute care, caution and circumspection.

23. Verily, the engagement of the petitioner by varahi Ltd., which was taken over by the respondent lateron was not a denying fact. The petitioner had been working with the present management as worker on gross salary of Rs. 9100/- per month. The petitioner had herself left the job by tendering her resignation out of her own sweet will and consent. Admittedly, the petitioner had completed 240 working days in a calendar year. The petitioner had duly admitted that she was paid full & final settlement amount at the time of her termination. Though, she had denied that on 28.4.2020, the security guard during usual freesking found her in possession of stolen property i.e two tiffin boxes. She had denied that the resignation was tendered out of her own will.

24. A plea was taken by the respondent that the petitioner was indulged in an act of misconduct by committing theft and found in possession of stolen property. The petitioner had herself tendered the resignation out of her free will and volition. It is well known that the resignation once tendered and accepted cannot be withdrawn lateron. There is nothing on record to show that a notice was served upon the petitioner by the respondent calling upon to offer her reply to the explanation of involving in an act of theft. Admittedly, no disciplinary proceedings were intitied against the petitioner for her alleged involvement in the commission of theft. It appears from the substantive evidence of (RW-2) Shri Vivek Gupta that he was discharging his duty from 6.30 PM to 6.30 AM. He intimated his seniors orally regarding the alleged incident of theft. He admitted that no Police report was lodged. Similarly, Mahinder Singh (RW-1) stated that the petitioner herself tendered her resignation. He admitted that the junior persons to the petitioner are working in the company. He denied that the respondent company engaged another workers after their termiantion/resignation. He admitted that no report in the Police regarding the theft was lodged. Volunteered that the petitioner had confessed her guilt in the presence of security guard.

25. In the back-drop of aforesaid events, it is held that the termination of the petitioner was in violation of the provisions of Sections 25-B and 25-F of the Act. The termination is held to be illegal, unlawful and unjustified.

26. In the instant case, looking into the entire facts and circumstances of the case, bearing in mind the resignation tendered by the petitioner, Ld. Counsel for the parties during the course of argument had agreed to settle the dispute interse them by making further lump sum compensation, whereby Ld. Counsel for the respondent had offered to pay a of Rs. 30,000/- on account of her reinstatement, back-wages, seniority, past service benefits and compensation. Admittedly, the documentary proof placed on record from the side of respondent depicts that the respondent company had lost faith, confidence in the petitioner. The mutual trust, faith and confidence are the backbone of the employer-employee relationship. According to the respondent the petitioner indulged in an incident of theft of tiffin boxes from its manufacturing plant and she was caught red handed. Though, there is a complete denial on the part of the petitioner but the resignation tendered by her would substantiate the case of the respondent. Since, the parties had reached to an inescapable conclusion of settling the matter by making full & final payment of Rs. 30,000/- by the respondent company as such, the petitioner is held entitled for lump sum monetary compensation in full and final satisfaction of her claim of reinstatement and other consequential benefits. In the case in hand, the factors which have weighed are that the petitioner had remained engaged with the respondent for approximately nine years.

27. For the foregoing reasons, in view of discussion and finding arrived at by me hereinbefore, a lump sum compensation of Rs. 30,000/- (Thirty Thousand) would be an appropriate relief to which the petitioner is entitled to in the facts and circumstances of given case. It is further made clear that the amount of compensation shall be paid within three months from the date of receipt of the award, failing which the petitioner would be entitled to interest @ 9% per annum from the date of the award till its actual realization.

ISSUE NO.3

28. In order to prove this issue, no specific evidence has been led from the side of the respondent, which could go to show as to how the present petition has not been maintainable. Moreover, the present petition has been filed by the peittioner pursuant to reference received from the appropriate government for legal adjudication. I find no illegality in the present petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in favour of the peittioner and against the respondent.

RELIEF

29. As a sequel to my above discussion and findings on issues no.1 to 3, the claim of the petitioner succeeds and is hereby partly allowed and the petitioner is awarded lump sum compensation of Rs. 30,000/- (Thirty Thousand), to be paid by the respondent, within a period of two months from the date of announcement of the award, failing which interest at the rate of 9% (nine percent) would be payable by the respondent to the workman. The reference is disposed off in the aforesaid terms. Let a copy of this award be communicated to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
*Industrial Tribunal-cum-
Presiding Judge,
Labour Court, Shimla.*

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 79 of 2017

Instituted on : 01-06-2017

Decided on : 01-12-2022

Hem Raj Rana s/o Shri Hoshiar Singh r/o # 116, Uchha Parwanoo, Tehsil Kasuali, District Solan, HP. . .Petitioner.

VERSUS

1. The Managing Director M/s Paragreen (P) Ltd. SCO-7, 2nd Floor, Sector 11, Panchkula Haryana.

2. The Factory Manager M/s Acery India Technologies Ltd., Parwati Bhawan, Khasra No. 380/2 and 381/1, Village Kamli, P.O. Parwanoo, District Solan, H.P. . Respondents.

Reference under section 10 of the Industrial Disputes Act.

For the Petitioner : Shri R. K. Khidtta, Advocate

For the Respondent : Shri Rahul Mahajan, Advocate

AWARD

The following reference petition has been, received from the Appropriate Government, vide notification dated 31.03.2017, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication, which reads as under:

“Whether the termination of services of Shri Hem Raj Rana s/o Shri Hoshiar Singh r/o # 116, Uchha Parwanoo, Tehsil Kasuali, District Solan, H.P. w.e.f. 26.2.2016, who was employed as security guard in the establishment namely M/s Acery India Technologies Ltd., Parwati Bhawan, Khasra No. 380/2 and 381/1, Village Kamli, PO Parwanoo, District Solan, HP (principal employer), through (ii) the Managing Director M/s Paragreen (P) Ltd. SCO-7, 2nd Floor, Sector 11, Panchkula Haryana (contractor) allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from above employers/management?”

2. To the fore, Shri hem Raj Rana (hereinafter to be referred as the petitioner) has instituted the claim petition against the Managing Director M/s Paragreen (P) Ltd. SCO-7, 2nd Floor, Sector 11, Panchkula Haryana (hereinafter to be referred as respondent No.1) and The Factory Manager M/s Acery India Technologies Ltd., Parwati Bhawan, Khasra No. 380/2 and 381/1, Village Kamli, PO Parwanoo, District Solan, HP (hereinafter referred to be as respondent No.2) under the provisions of the Act.

3. Material facts necessary for the disposal of the present reference petition as has been delineated by the petitioner which discloses thus that the petitioner was engaged as Security Personnel by the respondent no.2 in their unit through the contractor i.e respondent no.1 w.e.f. 05.07.2014 and he had worked as such till 05.11.2015. Thereafter, the petitioner was asked to work in Unit-1 from 06.11.2015 to 25.02.2016. The services of the petitioner have been terminated by the respondent w.e.f. 28.02.2016 without following the mandatory provisions of the Act as well as other service rules applicable to the petitioner. No warning and chargesheet was conveyed to the petitioner. The respondents have also not paid any benefits, as per law, to the petitioner. The respondents are bound to pay full wages and additional amount for the extra working hours, which comes to Rs. 4,16,113/- to the petitioner, as per the detailed calculation made by the petitioner. The petitioner has completed 240 working days in each calendar year, hence, the termination of the services of the petitioner is totally wrong, illegal, unjust and against the mandatory provisions of the Act. The oral termination is illegal and in violation of the provisions of sections 25-F, 25-G and 25-H of the Act. The entire family of the petitioner is suffering due to illegal oral termination.

4. The following prayer clause has been appended, in the footnote of the petition, which reads as under:

“In view of the submissions made hereinabove, it is therefore most respectfully prayed that the claim petition filed by the petitioner may kindly be allowed and the impugned oral dismissal order of the services of the petitioner w.e.f. 26.2.2016 passed by the respondent no.2 may kindly be quashed and set aside and the respondents may kindly be directed to reinstate the petitioner in service with all service benefits including full back-wages w.e.f. 26.2.2016. Further, the respondents may kindly be directed to pay ₹ 4,16,113/- as per annexure P-1 to the petitioner with upto date interest. Respondents may also be burdened with the cost of litigation amounting to Rs. 30000/- and respondents may also be directed to pay the damages amounting to Rs. 5 lakhs for the harassment caused to the petitioner and his family members due to their illegal action.

Any other order which deem just and proper in the present facts and circumstances of the case/reference may also be passed in favour of the petitioner and against the respondents and justice be done with the petitioner.”

5. The lis was resisted and contested by respondent No.1 by filing written reply on inter-alia preliminary objections that the petitioner has not approached this Court with clean hands, the claim is based on misleading facts and upon the misconceived information, abandonment and the claim filed by the petitioner is devoid of merits.

6. On merits, it is submitted that the petitioner was on the rolls of the respondent no.1, which is providing security and other allied and ancillary services of the respondent no. 2 by virtue of an agreement, hence, the petitioner was deployed by the respondent no.1 with the respondent no. 2. The respondent no.1 used to submit monthly invoices to the respondent no. 2 and after verifying the records, attendance of the deployed staff releases the payments to the respondent no.1, who disburse the wages to the deployed staff as per the provisions of the Contract Labour Act. It is denied that the services of the petitioner have been terminated by the respondent no.1. The petitioner has abandoned his job wilfully. The respondent no.1 had intimated the petitioner many times to report for duty by written letters dated 18.4.2016, 28.3.2017 and 7.4.2017 but the petitioner failed to join his duties. It is further submitted that the work and conduct of the petitioner was not at all satisfactory and he was warned on many occasions by the respondent no.1. The petitioner was fully paid for the period he worked. It is denied that the respondent no.1 is bound to pay Rs. 4,16,113/- to the petitioner. It is further submitted that the management is ready to take the petitioner back in service. It is therefore prayed that the claim filed by the petitioner may kindly be dismissed.

7. Similarly, by filing separate reply, the respondent no.2 has submitted that the respondent no.1 is providing security and other allied and ancillary services to the respondent no. 2 by virtue of an agreement and licence under the Contract Labour (Regulation and Abolition) Act, 1970 and as such the petitioner was deployed by respondent no.1 at the unit of respondent no. 2. The petitioner was the employee of respondent no.1, hence, all the claims related to the employment of the petitioner are false, frivolous, misleading, misconceived and ill-conceived and the respondent no. 2 does not have any administrative and supervisory control over the petitioner. The respondent no. 2 also prayed for the dismissal of the present claim petition.

8. While filing rejoinder, the petitioner controverted the averments made thereto in the replies filed by respondents and reaffirmed and reiterated those raised in the claim petition.

9. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 11.06.2018, as under:

1. Whether the termination of the services of the petitioner w.e.f. 26.2.2016, without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified? . . .OPP.

2. If issue no.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to? . . .*OPP*.
3. Whether the petitioner had abandoned the job at his own, as alleged? . . .*OPR*.
4. Whether there is no relationship of employer and employee between the petitioner and respondent no.2 as alleged? . . .*OPR*.
5. Relief

10. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

11. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

12. For the reasons to be recorded hereinafter while discussing points for determination, my findings on the aforesaid issues are as under:

Issue No.1	Yes
Issue No.2	Entitled to lump sum compensation.
Issue No.3	No
Issue No.4	Yes
Relief	Reference is partly allowed awarding lump sum compensation to the petitioner.

REASONS FOR FINDINGS

ISSUES NO.1 to 4.

13. All these issues are intermingled and inter connected, as mutually existed and required the common appreciation of evidence, being taken up together for the purpose of their determination and adjudication.

14. In order to substantiate its case, the petitioner has appeared in the witness box as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he reiterated almost all the averments as made in the claim petition. He also tendered into evidence copy of demand notice (PW-1/B) and copy of detailed calculation of amount due till dated Mark PX.

15. In cross-examination, on behalf of respondent no.1, he has admitted that M/s Paragreen Pvt. Ltd., has deputed him at Acery India Technologies Ltd. He further admitted that the M/s Paragreen used to pay his wages, contribute the amount towards EPF and ESI. He denied that respondent no.1 used to sanction his leave. He admitted that he had not made any complaint in writing to any Labour Authorities regarding non-payment of bonus, over time etc. He admitted to have received letters dated 28.3.2016, 4.4.2016, 7.4.2016, 12.4.2016 and 18.4.2016 asking him to resume his duties. He volunteered that he was not allowed to resume his duties and wrote letter (PX) to the respondents in this regard. He is sixty years of old.

16. When cross-examined on behalf of respondent no.2, he admitted that he was not issued any appointment letter by respondent no.2. He admitted that he was under the control of Paragreen.

17. (PW-2) Ms. Ambika Dogra, Manager, HR with ESRI India Technology Ltd. has brought the summoned record and deposed that after 2014, they had appointed around 8-10 security guards as fresh hands and the petitioner was working for 12 hours. In cross-examination on behalf of respondent no.1 she admitted that the record pertains to M/s Paragreen Pvt. Ltd. and the same has been maintained by M/s Paragreen.

18. In order to rebut, the respondent No.1 has examined Shri Mukesh Arora, MD of respondent no.1 as (RW-1), who tendered in evidence his sworn in affidavit (RW-1/A), wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence authority letter (RW-1/B), letters dated 7.4.2016 and 18.4.2016 Mark R-1 and Mark R-2, statement of account Mark R-3 and letter regarding salary hike Mark R-4.

19. In cross-examination, on behalf of petitioner he denied that the petitioner was employee of respondent no.2 w.e.f. 05.07.2014. He admitted that the petitioner worked in Unit -2 of the respondent no.2 from 5.7.2014 to 5.11.2015 and from 6.11.2015, he was sent to unit-I where he worked till 25.2.2016. He admitted that the respondent no.1 has not obtained any registration to employ the workers on contract basis. He stated that the petitioner had left the job on his own to which letters Mark R-1 and Mark R-2 were issued to him to join the duty. He admitted that the petitioner vide letter dated 13.4.2016, reported that he was not allowed to join his duties at Parwanoo. He denied that the petitioner was terminated illegally by an oral order. He denied that the petitioner was the employee of respondent no.2. He admitted that he cannot produce any document to prove that the petitioner admitted for not resuming his duty.

20. This is the entire oral as well as documentary evidence adduced from the side of the parties.

21. Shri R. K. Khidta, Advocate for the petitioner has contended with all vehemence that the petitioner there is a clear cut violation of section 25-F of the Act as the services of the peittioner were termianted by an oral order without complying with the provisions of the Act. The services of the petitioner were engaged by the respodnent no.2 but he was shown to be engaged through respondent no.1, which is nothing but amouting to camouflage. So far as concerning the plea of abandonment which has to be proved on record, therefore, the termiantion of the services of the petitioner amounts to unfair labour practice, hence, he is entitled to be reinstated in service along-with all consequential service benefits including full back-wages.

22. Per contra, Shri Rahul Mahajan, Ld. Counsel for the respondent no.1 urged that services of the petitioner were engaged by the respondent no.1 as security guard and he was deputed with respondent company. Since, the petitioner has abandoned the job on his own and despite called through letters, he failed to join his duties, hence, he is not entitled to any relief from this Court. He further contended that the petitioner has attained the age of superannuation and as such he is not entitled to be reinstated in service. He prayed for the dismissal of the claim petition.

23. I have given my best anxious considerable thought to the respective submissions of the Learned AR for the petitioner, as well Learned Counsel for the respondents and have also scrutinized the entire case record with minute care, caution and circumspection.

24. Thus, from a careful examination of the case record, it is manifestly clear on record that the only grouse raised from the side of the petitioner is that his services were engaged on 05.07.2014 by the company through respondent no.1 and he remained in service till 25.02.2016,

when his services were illegally terminated by the respondent company. No doubt, the petitioner is trying to establish on record that over all control and supervision on the working of the petitioner was that of respondent no.2. It is settled preposition of law that the initial burden lies on the party who alleges the same, therefore, it is the bounden duty of the petitioner to prove the fact that the respondent company used to pay wages and other legal dues to him. The petitioner in his cross-examination as (PW-1) has duly admitted that M/s Paragreen Pvt. Ltd. has deputed him at Acery India Technologies (respondent no.2). He further admitted that respondent no.1 used to pay him wages, contribute the amount towards EPF and ESI. Not only this, the petitioner was paid full and final settlement amount by the contractor i.e. respondent no.2. From this admission it is clear that the petitioner was the employee of respondent no.1 (contractor).

25. Now, it has to be seen as to whether the services of the petitioner have been terminated illegally without following the mandatory provisions of the Act by respondent no.1 or not?

26. Before advertng to the rival legal contentions advanced on behalf of the parties, it is important to consider the relevant provisions of the Act, in play in the instant case.

The Industrial Disputes Act, 1947, is:

“An act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes”.

Section 2(s) defines a Workman as:

“2(s). “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharge or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature]”

Section 2(oo) lays down the concept of retrenchment as:

“Retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman;
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf;

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein;”

(c) *termination of the service of a workman on the ground of continued ill-health”*

27. Conclusively, I am unable to agree with the contention advanced by the learned counsel appearing on behalf of the respondent no.2. The question “who is a workman” has been well settled by various judgments of the Hon’ble Supreme Court. In the case of *H.R. Adyanthaya vs. Sandoz (India) Ltd. (1997) 5 SCC 737*, a Constitution Bench of the Hon’ble Supreme Court has held as under:

“..We thus have three Judge Bench decisions which have taken the view that a person to be qualified to be a workman must be doing the work which falls in any of the four categories, viz, manual, clerical, supervisory or technical and two two-judge Bench decisions which have by referring to one or the other of the said three decisions have reiterated the said law. As against this, we have three three-judge Bench decisions which have without referring to the decisions in May & Baker, WIMCO and Bunnah Shell cases (supra) have taken the other view which was expressly negatived, viz., if a person does not fall within the four exceptions to the said definition he is a workman within the meaning of the ID Act. These decisions are also based on the facts found in those cases. They have, therefore, to be confined to those facts. Hence the position in law as it obtains today is that a person to be a workman under the ID Act must be employed to do the work of any of the categories, viz., manual, unskilled, skilled, technical, operational, clerical or supervisory. It is not enough that he is not covered by either of the four exceptions to the definition. We reiterate the said interpretation.”

28. Again their Lordship of Hon’ble Supreme Court by a Seven Judges Bench way back in the year 1978, in the case of *Bangalore Water Supply and Sewerage Board vs. A. Rajappa and Ors. (1978) 2 SCC 2013*. It was held an industry in the wider terms of Section 2(j) of the Act, though not all of its employees are workmen. It was held as under:

“The premises relied on is that the bulk of the employees in the university is the teaching community. Teachers are not workmen and cannot raise disputes under the Act. The subordinate staff being only a minor category of insignificant numbers, the institution must be excluded, going by the predominant character test. It is one thing to say that an institution is not an industry. It is altogether another thinking to say that a large number of its employees are not ‘workmen’ and cannot therefore avail of the benefits of the Act so the institution ceases to be an industry. The test is not the predominant number of employees entitled to enjoy the benefits of the Act. The true test is the predominant nature of the activity. In the case of the university or an educational institution, the nature of the activity is, ex hypothesis, education which is a service to the community. Ergo, the university is an industry. The error has crept in, if we may so say with great respect, in mixing up the numerical strength of the personnel with the nature of the activity. Secondly there are a number of other activities of the University Administration, demonstrably industrial which are severable although ancillary to the main cultural enterprise. For instance, a university may have a large printing press as a separate but considerable establishment. It may have a large fleet of transport buses with an army of running staff. It may have a tremendous administrative strength of officers and clerical cadres. It may have karamcharis of various hues. As the Corporation of Nagpur has effectively ruled, these operations, viewed in severalty or collectively, may be treated as industry. It would be strange, indeed, if a

university has 50 transport buses, hiring drivers, conductors, cleaners and workshop technicians. How are they to be denied the benefits of the Act, especially when their work is separable from academic teaching, merely because the buses are owned by the same corporate personality? We find, with all defence, little force in this process of nullification of the industrial character of the University's multi-form operations."

29. A perusal of the above mentioned two judgments of the Hon'ble Supreme Court would clearly established that the definition of "workman" as given in Section 2(s) of the Act has been interpreted in the most wider terms. Even otherwise the true import of the provisions itself is quite wide ranging. It has been defined in such a way so as to include any person doing any manual, unskilled, skilled, technical, operational, clerical or supervisory work. Once a person is engaged for hire or reward, oblivious of the fact that whether the terms of employment are expressed or implied, a person would fall within the parameters of a "workman" atleast for the purposes of this Act. Even if a person is working on contract it cannot be said that he does not fall within the definition of a "workman". It could be legitimately concluded that being a contractual employee his disengagement may not fall within the definition of "retrenchment" but the same would be dependent upon the requirements of Sub Section (bb) of the provisions of Section 2(oo) of the Act. However, merely being a contractual employee does not mean that a person will not fall within the definition of "workman". So, a contractual labourer/field assistant employed by an industry, being an unskilled person, is a workman for the purpose of the Act.

30. Verily, without lamenting much stress on the arguments advanced before me by the Ld. Counsel for the parties, I may straight away jump into the conclusion by referring the pleadings as well as evidence adduced from the side of the respective parties.

31. The next very question which arises for determination that whether the termination of the services of the petitioner 26.2.2016, is violative of the provisions of the Act. It is the case of respondent no.1, that the services of the petitioner were transferred from Parwanoo to Baddi, where he had failed to report for duties. The petitioner was asked through letters Mark R-1 and Mark R-2 to resume his duties but he has failed to resume the same. It is further the case of the respondent no.1 that the services of the petitioner were never terminated by the respondent no.1. In fact, it is the petitioner who abandoned his job. No doubt, the respondent no.1 has written letters Mark R-1 to Mark R-2 to the petitioner in order to resume his duties or report to the Branch Office, Baddi. It is admitted position on record that after receiving the aforesaid letters, the petitioner had visited the respondent no.2 for joining his duties but he was not allowed to resume his duties. In this regard, the petitioner has informed vide letter (PX) that he was not allowed to join his duties. Thus, it is clear on record that the petitioner had not abandoned his job but he was not allowed to join his duties. Hence, the case of the petitioner clearly falls under the definition of retrenchment. It is also admitted position on record that the respondent no.1 while terminating the services of the petitioner is to comply with the requirement of the law. The very action on the part of the respondent no.1, while terminating the services of the petitioner has to fall within the four corners of the definition of "retrenchment" as envisaged under section 2-oo (bb) of the Act, hence, the termination of the services of the petitioner is held to be bad and nonest in the eyes of law. Since, the petitioner has completed the requirement of days as fixed by the Government, hence, he is also entitled for the protection of section 25-F of the Act. It is also admitted fact that before retrenching the services of the petitioner no notice as prescribed under section 25-F of the Act had been issued. The compensation is also to be calculated and asserted as per the provisions of section 25-F of the Act. Therefore, in view of the aforesaid discussion, I am of the considered opinion that the workman was terminated illegally and unjustifiably without complying with section 25-F of the Act, which provides as under:

"25-F: No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until :

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government for such authority as may be specified by the appropriate Government by notification in the Official Gazette".

32. So, in view of this enabling provision of the Act, no workman employed in any industry, who has been in "continuous service" for not less than one year, can be retrenched by the employer unless he has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of notice. The expression "continuous service" has been defined under Section 25-B of the Act, which in its material part reads:

"25B. Definition of continuous service. For the purposes of this Chapter,-

- (1) *a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;*
- (2) *where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—*
 - (a) *for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-*
 - (i) *one hundred and ninety days in the case of a workman employed below ground in a mine; and*
 - (ii) *two hundred and forty days, in any other case...."*

33. Since, the petitioner is proved to have completed more than 240 days during the period of twelve calendar months in the preceding year from the date of his retrenchment, his services could not have been terminated unless he was served with one month's mandatory notice and paid the retrenchment compensation, as envisaged under Section 25-F of the Act. Admittedly, the provisions of Section 25-F of the Act, were not followed or complied with by the respondent in the latter and spirit. The respondent did not pay the retrenchment compensation to the petitioner, nor had issued any requisite notice to the petitioner.

34. In the back-drop of aforesaid events, it is held that the termination of the petitioner was in violation of the provisions of Sections 25-B and 25-F of the Act. The termination is held to be illegal, unlawful and unjustified.

35. Now, the question arises as to what relief, the workman is entitled to? Their Lordships of Hon'ble Supreme Court in an authority reported as *The Workmen of M/s Firestone Tyre & Rubber Co. of India (Pvt.) Ltd. etc. vs. The Management & Ors.* 1973 (1) SCC 813, Hon'ble Supreme Court observed as under:

"10. In a particular case, after setting aside the order of dismissal, whether a workman should be reinstated or paid compensation is, as held by this Court in *The Management of Panitole Tea Estate Vs. The workmen* (1971) 1 SCC 742 within the judicial decision of a Labour Court of Tribunal."

36. Similarly, Their Lordship of Hon'ble Delhi High Court in another authority reported as *Nehru Yuva Kendra Sangathan Vs. Union of India & Ors.* 2000 IV AD (Delhi) 709, Hon'ble Delhi High Court dealt with the question of reinstatement and back wages and observed, as under:

"The decision of the Supreme Court rendered in the 1970s and 1980s that reinstatement with back wages was the norm in cases where the termination of the services of the workman was held inoperative. The decisions rendered in the 1990s, including the decision of the Constitution Bench in the *Punjab Land Development and Reclamation Corporation Ltd., Chandigarh* seem to suggest that compensation in lieu of reinstatement and back wages is now the norm. In any case, since I am bound to follow the decision of the Constitution Bench, I, therefore, conclude that reinstatement is not the inevitable consequence of quashing an order of termination; compensation can be awarded in lieu of reinstatement and back wages."

37. To combat with, I am persuaded to award compensation in lieu of reinstatement and back wages to the workman.

38. Moreso, their Lordships of Hon'ble Supreme Court in another authority reported as *M. L. Binjolkar Vs. State of Madhya Pradesh*, 2005 VI (S.C.) 413, Hon'ble Supreme Court observed in paragraph 7 as under :

"Though the High Court has not specifically dealt with the question as to what would be the appropriate quantum, keeping in view the law laid down by this Court in various cases e.g. *Hindustan Motors Ltd. Vs. Tapanj Kumar Bhattacharya & Anr.* (2002 (6) SCC 41), *Rajendra Prasad Arya Vs. State of Bihar* (200 (9) SCC 514), *Sonepat Cooperative Sugar Mills Ltd. Vs. Ajit Singh* (2005 (3) SCC 232), *Haryana State Cooperative Land Development Bank Vs. Neelam* (2005 (5) SCC 91), *Manager, Reserve Bank of India, Bangalore Vs. S. Mani & Ors.* (2005 (5) SCC 100) and *Allahabad Jal Sansthan Vs. Daya Shankar Rai & Anr.* (2005 (5) SCC 124), we do not find any scope for interference. The earlier view was that whenever there is interference with the order of termination or retirement, full back wages were the natural corollary. It has been laid down in the cases noted above that it would depend upon several factors and the court has to weigh the pros and cons of each case and to take a pragmatic view."

39. Their Lordship of Hon'ble Supreme Court in another authority reported as *U.P. State Brassware Corporation Limited and another Vs. Uday Narain Pandey*, (2006) 1 SCC 479, wherein the Hon'ble Supreme Court, observed as under:

"A Division Bench of this Court in *M. L. Binjolkar v. State of M.P.* (2005) 6 SCC 224, referring to a large number of decisions, held as under:

"The earlier view was that whenever there is interference with the order of termination or retirement, fullback wages were the natural corollary. It has been laid down in the cases noted above that it would depend upon several factors and the Court has to weigh the pros and cons of each case and to take a pragmatic view."

40. In the instant case, the petitioner was engaged by contractor i.e respondent no.1 and thereafter he was deployed with respondent no. 2. The petitioner had worked in the capacity of workman. It is also admitted position on record that the petitioner has attained the age of superannuation i.e 60 years, hence, the only remedy available with this Tribunal is to award compensation amount to the petitioner in lump sum amount.

41. Recent developments, particularly the trends particularly much after the year 2007 shows that grant of compensation in lieu of reinstatement has gained precedence, more particularly, where the services of the workmen have been terminated because of procedural defects. In the case in hand too the termination is found to be illegal in view of the provisions Act, both ends of justice would thus be met, in case the petitioner is granted compensation in lieu of reinstatement thereof. In this behalf support can ably be drawn from the judgment of the Hon'ble Supreme Court titled as Bharat Sanchar Nigam Ltd. Vs. Bhurumal (2014) 7 SCC 177 and further reiterated lately in P. Karupiah (dead) through Legal Representatives Vs. General Manager, Thruvulluvar Transport Corporation Ltd. (2018) 12 SCC 663 and Rashtrasant Tukdoji Maharaj Technical Education Samstha, Nagpur Vs. Prashant Manikrao Kubitkar (2018) 12 SCC 294.

42. In the exposition of law enumerated hereinbefore, now, I would like to award the lump sum compensation to the petitioner in the attendant facts and circumstances of the case.

43. For the foregoing reasons, keeping in view the mandate of Hon'ble Apex Court in various judgments referred to above, the petitioner is held entitled for a lump sum compensation amount of ₹ 1,00,000/- (₹ One lac) as lump sum compensation from the respondent no.1, who is liable to pay the awarded amount to the petitioner. All these issues are decided accordingly.

RELIEF

44. As a sequel to my above discussion and findings on issues no.1 to 4, the claim of the petitioner succeeds and is hereby allowed and the petitioner is awarded lump sum compensation of ₹ 1,00,000/- (one lac), to the workman, to be paid by the respondent no.1 i.e. The Managing Director M/s Paragreen (P) Ltd. SCO-7, 2nd Floor, Sector 11, Panchkula Haryana (Contractor), within a period of two months from the date of announcement of the award, failing which interest at the rate of 9% (nine percent) would be payable by the respondent to the workman. This apart, it is expressly made clear that besides lump sum compensation, the petitioner is entitled for all his legal dues i.e gratuity, leave encashment, EPF, ESI etc., admissible, if any, in accordance with law. The reference is disposed off in the aforesaid terms. Let a copy of this award be communicated to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 162 of 2021
 Instituted on : 03-09-2021
 Decided on : 01-12-2022

Parveen Kumar s/o Shri Pritam Singh r/o Village Laut, P.O. Buni, Tehsil Nirmand, District Kullu, H.P. . *Petitioner.*

VERSUS

Occupier/Factory Manager M/s Eastman Auto Power Ltd., Barotiwala, Village Bated, Pargna Doon, P.O. Barotiwala, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For Petitioner : Shri Ramakant Sharma, Advocate.
 For Respondent : Shri Rajiv Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 11.08.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether termination of services of Shri Parveen Kumar s/o Shri Pritam Singh r/o Village Laut, PO Buni, Tehsil Nirmand, District Kullu, HP w.e.f. 28.04.2020 by the Occupier/ Factory Manager M/s Eastman Auto Power Ltd., Barotiwala, Village Bated, Pargna Doon, PO Barotiwala, Tehsil Nalagarh, District Solan, HP without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement of service, back-wages, other consequential service benefits and compensation the above aggrieved workman is entitled to from the above employer/ management?”

2. On receipt of the said reference from the Appropriate Government, notices were issued to the concerned parties in pursuance to which the petitioner has filed his statement of claim praying therein for his reinstatement with all service benefits including back-wages.

3. To the fore, Shri Arvind Goyal, Manager HR of respondent company stated that the dispute interse the parties stood amicably resolved and settled, as a result of which the respondent management had agreed to reinstate the petitioner on the post of Senior Engineer (Quality Control) with continuity of service and seniority from the date of termination, with all consequential benefits, without back-wages for the intervening period i.e May, 01, 2020 to November 30, 2022. He further stated that the petitioner will join/report the company from 1.12.2022 at Barotiwala, Tehsil Baddi, District Solan, HP positively and the company will provide salary for the month of April 2020 for the working period to the petitioner and they will not file any case against this dispute. He also tendered into evidence memorandum of settlement (PX) on record. To this effect, his statement recorded separately and placed on record.

4. The petitioner Shri Parveen Kumar, vide his separate statement, has stated that since the matter stood amicably resolved and settled between the parties as the respondent company had agreed to reinstate him on the post of Senior Engineer (Quality Control) with continuity of service and seniority from the date of termination, with all consequential benefits, without back-wages for the intervening period i.e. May 01, 2020 to November 30, 2022 and he will join/report the company from 1.12.2022 at Barotiwala, Tehsil Baddi, District Solan, HP positively and the company will provide salary for the month of April 2020 for the working period to him and he will not file any case against this dispute, which is acceptable to him, hence, he does not want to proceed further with the present reference which may kindly be decided accordingly. The statement of Shri Arvind Goyal, Manager HR is read over and explained to him which is duly acceptable.

5. Thus, keeping in view the attendant facts and circumstances of the case *vis- a -vis* perusal of the case record manifestly and conclusively goes to demonstrate that the Industrial Dispute raised from the side of the late petitioner stood amicably resolved and finally compromised between the parties and the respondent has agreed to reinstate the petitioner on the post of Senior Engineer (Quality Control) with continuity of service and seniority from the date of termination, with all consequential benefits, without back-wages for the intervening period i.e. May, 01, 2020 to November 30, 2022. He further stated that the petitioner will join/report the company from 1.12.2022 at Barotiwala, Tehsil Baddi, District Solan, HP positively and the company will provide salary for the month of April 2020 for the working period to the petitioner and both the parties will not file any case against this dispute. From the aforesaid statements of the parties, it is apparently established that the parties have compromised the industrial dispute arising out of reference no. 162 of 2021.

6. Since, the matter stood amicably resolved and settled between the parties by way of amicable settlement, therefore, nothing survives in the present industrial dispute. Consequently, the industrial dispute raised by the petitioner stood amicably settled to which the petitioner has been reinstate the petitioner on the post of Senior Engineer (Quality Control) with continuity of service and seniority from the date of termination, with all consequential benefits, without back-wages for the intervening period *i.e.* May 01, 2020 to November 30, 2022. He further stated that the petitioner will join/report the company from 1.12.2022 at Barotiwala, Tehsil Baddi, District Solan, HP positively and the company will provide salary for the month of April 2020 for the working period to the petitioner and they will not file any case against this dispute.

7. The reference is answered accordingly and the award is passed as per the statements of parties and settlement (PX) which shall form an integral part and parcel of this award.

8. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
01.12.2022

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 02 of 2011

Instituted on : 23-02-2011

Decided on : 01-12-2022

Raghuviner Kumar s/o Shri Purshotam Lal r/o VPO Boghpur, Jalandhar Punjab through Shri J.C. Bhardwaj, President H.P. AITUC, HW Saproon, Solan, HP. . *Applicant.*

VERSUS

M/s Wrigley India Pvt. Ltd., Village Katha, Baddi, District Solan, HP through its Director-Supply Chain India. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri J.C. Bhardwaj, AR.

For the Respondent : Shri Rajiv Sharma, Advocate

ORDER/AWARD

The following reference petition has been, received from the Appropriate Government, vide notification dated 27.01.2011, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication, which reads as under:

“Whether the dismissal of the services of Shri Raghuvinder Kumar S/o Shri Purshotam Lal, Senior Executive Logistics by the Director M/s Wrigley India Pvt. Ltd., Village Katha, Baddi, District Solan, HP w.e.f. 03.09.2009, vide letter dated 03.09.2009 on the basis of domestic enquiry on the charges of misconduct, as alleged by the worker is legal and justified? If not, to what back-wages, service benefits and relief the above named Shri Raghuvinder Kumar S/o Shri Purshotam Lal is entitled to?”

2. It is evident on record that my Id. Predecessor vide order dated 23.03.2018, decided the preliminary issue framed on 28.3.2013, in favour of the petitioner by holding that the enquiry conducted by the enquiry officer is violative of the principles of natural justice and the same is set aside and quashed. Feeling aggrieved against this order, the respondent management had approached the Hon’ble High Court of Himachal Pradesh vide CMPMO No. 334 of 2018 titled as Wrigley India Private Vs. Shri Raghuvinder Kumar, wherein the Hon’ble High Court has been pleased to pass the following order which reads as under:

“Having hear learned counsel for the parties and having taken note of what was stated by the respondent in the Court, the present petition as well as CMP No. 15719 of 2022 are disposed of by taking on record the factum of the matter having been amicably settled between the parties, in terms, which are mentioned in the application. In view of the said development, it is ordered that Reference No. 02 of 2011, which is pending before the learned Presiding Judge, Labour Court, Shimla, Camp at Nalagarh, H.P. now need not be answered by the learned Labour Court and be consigned to the record, by placing on record the copy of order which has been passed by this Court today. Record be forthwith sent back

to the learned Labour Court so that formal order in this regard can be passed by the learned Labour Court. Miscellaneous application(s), if any, also stand disposed of”.

3. Therefore, in compliance to the directions passed by the Hon’ble High Court, the present reference petition is disposed off accordingly in terms of the orders passed by the Hon’ble High Court in CMPMO No. 334 of 2018 (supra).

4. Let a copy of this order be also communicated to the appropriate government for its due publication in the official gazette forthwith. File after completion be consigned to records. Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 31 of 2021

Instituted on : 17-02-2021

Decided on : 01-12-2022

Mahesh Kumar s/o Shri Bhagat Singh, r/o Village Suhi, P.O. Dhul, Tehsil Joginder Nagar,
District Mandi, H.P. . .Petitioner.

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road,
Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 21.01.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Mahesh Kumar s/o Shri Bhagat Singh, R/o Village Suhi, P.O. Dhul, Tehsil Joginder Nagar, District Mandi, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal,

P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?"

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 31 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 17.02.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, in fact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of

reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Mahesh Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 32 of 2021
Instituted on : 17-02-2021
Decided on : 01-12-2022

Ajay Kumar S/o Shri Pyara Lal, r/o Village Mastanpura, P.O. Khillian, Tehsil Nalagarh,
District Solan, H.P. . .Petitioner.

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road,
Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.
For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 21.01.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Ajay Kumar s/o Shri Pyara Lal, r/o Village Mastanpura, P.O. Khillian, Tehsil Nalagarh, District Solan, HP, for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 32 of 2021 and accordingly, notices were issued to both the parties but neither the petitioner nor his Counsel had ever appeared before this Tribunal whereas Ms. Rinku Kaul, Advocate had appeared for respondent on 07.09.2021.

3. This case is being listed for filing of claim since 25.03.2022 but till date the petitioner has failed to file any statement of claim despite the fact that he has already availed 18 opportunities to file statement of claim but in vain which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to close the right of the petitioner to file statement of claim and to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

Similarly, Rule 25 thereof which reads thus:-

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

7. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to

presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

8. In the instant case, since the petitioner has failed to file any statement of claim despite having been availed 18 opportunities. In these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material whichsoever is available on record.

9. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Ajay Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

10. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 37 of 2021

Instituted on : 18-02-2021

Decided on : 01-12-2022

Pawan Kumar s/o Shri Somnath, r/o Village Beli, P.O. Bharatgarh, Tehsil Roper, District Roper (Rupnagar), PB. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 10.02.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Pawan Kumar s/o Shri Somnath, r/o Village Beli, P.O. Bharatgarh, Tehsil Roper, District Roper (Rupnagar), PB for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 37 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 18.02.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:-

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Pawan Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 41 of 2021

Instituted on : 18-02-2021

Decided on : 01-12-2022

Kuldeep Chand s/o Shri Jaswant Singh, r/o VPO Kulpi, Tehsil & District Kangra, H.P.

. .Petitioner.

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 10.02.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Kuldeep Chand s/o Shri Jaswant Singh, r/o VPO Kulpi, Tehsil & District Kangra, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 41 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 18.02.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Kuldeep Chand is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 73 of 2021
Instituted on : 10-03-2021
Decided on : 01-12-2022

Mona d/o Shri Dilbag Singh VPO Bhartgarh, Tehsil & District Ropar, Punjab. . .*Petitioner.*

VERSUS

1. M/s Penguin Electronics Ltd., Nalagarh, Bharatgarh Road, Village Saliewal, PO Bhatian, Tehsil Nalagarh, District Solan HP through its Factory Manager/Occupier.

2. M/s Preethi Kitchen Appliances Pvt. Ltd., (Unit-III), Village Saliewal, PO Bhatian, Tehsil Nalagarh, District Solan HP through its Managing Director. . Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Applicant : Ms. Nitu Sharma, Advocate.

For the Respondent : Shri Rajiv Sharma, Advocate

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 25.2.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether demand of Ms. Mona d/o Shri Dilbag Singh VPO Bhartgarh, Tehsil & District Ropar, Punjab for her reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh, Bharatgarh Road, Village Saliewal, PO Bhatian, Tehsil Nalagarh, District Solan HP after submitting her resignation as per Clause-I of the settlement dated 20.2.2020 arrived at under section 18(1) of the Industrial Disputes act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh, Bharatgarh Road, Village Saliewal, PO Bhatian, Tehsil Nalagarh, District Solan HP and the representatives of the workers union and after receiving full & final amount of Rs. 2.00 lacs as per clause-2 of the said settlement is proper and justified? If yes, what relief the above aggrieved worker is entitled to from the above employer/management? and if not, its effects?”

2. On receipt of the said reference from the Appropriate Government, notices were issued to the concerned parties in pursuance to which the petitioner has filed her statement of claim praying therein for her reinstatement with all service benefits including back-wages.

3. To the said reference, the respondent company has filed the reply wherein preliminary objections qua maintainability, application is bad in law and that the present application has been filed directly before this Court. On merits, the respondent company prayed for the dismissal of the petition.

4. At this stage, it has been stated, at bar, by Ms. Nitu Singh, Advocate for the applicant/petitioner that she does not want to proceed further with the present reference, hence, withdraw the same. To this effect, her statement recorded separately and placed on record.

5. On the other hand, Shri Rajiv Sharma, Advocate vide his separate statement has stated that he has no objection if the Ld. Counsel for the petitioner wants to withdraw the reference.

6. Therefore, keeping in view the aforesaid statement of Ld. Counsel for the applicant/petitioner, the present reference petition sent by the appropriate government for its legal adjudication is hereby ordered to be answered in negative as having been withdrawn.

7. Let a copy of this order be also communicated to the appropriate government for its due publication in the official gazette forthwith. File after completion be consigned to records. Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 75 of 2021

Instituted on : 10-03-2021

Decided on : 01-12-2022

Kapil s/o Shri Tek Chand, r/o Village Rundh, P.O. Kotindhi, Tehsil Sadar, District Mandi,
HP. . .Petitioner.

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road,
Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .Respondent

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 25.02.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Kapil s/o Shri Tek Chand, r/o Village Rundh, P.O. Kotindhi, Tehsil Sadar, District Mandi, HP for his reinstatement in service before Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the Occupier/ Factory Manager of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 246 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 10.03.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:-

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Kapil is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 86 of 2021

Instituted on : 01-04-2021

Decided on : 01-12-2022

Mehar Chand s/o Shri Kamal, r/o Village Bada Basot, P.O. Plassikalan, Tehsil Nalagarh,
District Solan, H.P. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road,
Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 16.03.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Mehar Chand S/o Shri Kamal, R/o Village Bada Basot, P.O. Plassikalan, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly

registered with this office, as Reference Petition no. 86 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 01.04.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Mehar Chand is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance

before this Tribunal to prosecute this reference petition and get the file revived after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 93 of 2021

Instituted on : 05-04-2021

Decided on : 01-12-2022

Het Ram s/o Shri Budh Ram, r/o Village Randala, P.O. Lunas, Tehsil Nalagarh, District Solan, HP. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 12.03.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Het Ram s/o Shri Budh Ram, r/o Village Randala, P.O. Lunas, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the

representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?"

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 93 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 05.04.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Shri Het Ram, is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 110 of 2021

Instituted on : 06-05-2021

Decided on : 01-12-2022

Pritam Singh s/o Shri Shripat, r/o Village Awair, P.O. Harabag, Tehsil Jogindernagar, District Mandi, HP. Petitioner

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 26.03.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Pritam Singh s/o Shri Shripat, r/o Village Awair, P.O. Harabag, Tehsil Jogindernagar, District Mandi, HP for his reinstatement in service before

the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?"

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 110 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 06.05.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, in fact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Pritam Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 168 of 2021
Instituted on : 04-09-2021
Decided on : 01-12-2022

Joginder Singh s/o Shri Chakhu Ram, r/o Village & P.O. Kattal, Tehsil Nalagarh, District Solan, H.P. . .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo
For the Respondent : Sh. Rajeev Sharma, Advocate

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 05.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Joginder Singh s/o Shri Chakhu Ram, r/o Village & P.O. Kattal, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 168 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 04.09.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Joginder Singh, is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 171 of 2021

Instituted on : 04-09-2021

Decided on : 01-12-2022

Lovenish s/o Shri Naresh Kumar, r/o Village Kuthed, P.O. Majhwad, Tehsil Sadar, District Mandi, H.P. . .Petitioner.

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 09.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Lovenish s/o Shri Naresh Kumar, r/o Village Kuthed, P.O. Majhwad, Tehsil Sadar, District Mandi, H.P. for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 171 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 04.09.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:-

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to

presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Lovenish is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 176 of 2021

Instituted on : 04-09-2021

Decided on : 01-12-2022

Jaswinder Singh s/o Shri Daulat Ram, r/o V.P.O Gardla, Tehsil Ropar, District Ropar, PB.
..Petitioner.

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road,
Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. ..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 25.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Jaswinder Singh s/o Shri Daulat Ram, r/o V.P.O. Gardla, Tehsil Ropar, District Ropar, PB for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 176 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 04.09.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to

presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Jaswinder Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 177 of 2021

Instituted on : 04-09-2021

Decided on : 01-12-2022

Puran Lal s/o Shri Kishan Ram, r/o Village Pokhari P.O. Devanai, Tehsil Garud, District Bageshwer, Uttrakhand. . .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 16.04.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Puran Lal s/o Shri Kishan Ram, r/o Village Pokhari P.O. Devanai, Tehsil Garud, District Bageshwer, Uttarakhand for his reinstatement in service before Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the Occupier/ Factory Manager of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 177 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 04.09.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:-

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Puran Lal is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 213 of 2021

Instituted on : 09-11-2021

Decided on : 01-12-2022

Chandan Singh s/o Shri Dilbag Singh, r/o V.P.O. Bhogpur, Tehsil Nalagarh, District Solan,
H.P.Petitioner.

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road,
Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 11.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Chandan Singh S/o Shri Dilbag Singh, R/o V.P.O. Bhogpur, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 213 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board,

Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Chandan Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 218 of 2021

Instituted on : 09-11-2021

Decided on : 01-12-2022

Virender Kumar s/o Shri Chain Lal, r/o V.P.O. Sherpur, Tehsil Dalhousie, District Chamba,
H.P. *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.
For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 25.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Virender Kumar s/o Shri Chain Lal, r/o V.P.O. Sherpur, Tehsil Dalhousie, District Chamba, H.P. for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 218 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Virnder Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 219 of 2021

Instituted on : 09-11-2021

Decided on : 01-12-2022

Balwinder Singh s/o Shri Ranjeet Singh, r/o Village Beli, P.O. Bharatgarh, Tehsil & District Ropar, Punjab. .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo

For the Respondent : Sh. Rajeev Sharma, Advocate

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 25.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Balwinder Singh S/o Shri Ranjeet Singh, R/o Village Beli, P.O. Bharatgarh, Tehsil & District Ropar, Punjab for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 219 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or

National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Balwinder Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 222 of 2021

Instituted on : 09-11-2021

Decided on : 01-12-2022

Kapil Dev s/o Shri Sher Singh, r/o Village Jangalbil, P.O. Matu, Tehsil Nirmand, District Kullu, HP. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 11.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Kapil Dev s/o Shri Sher Singh, r/o Village Jangalbil, P.O. Matu, Tehsil Nirmand, District Kullu, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallelwal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 222 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Kapil Dev is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 227 of 2021

Instituted on : 15-11-2021

Decided on : 01-12-2022

Pawan Kumar s/o Shri Jeet Ram, r/o Village Buhar, P.O. Paploa, Tehsil Jhanduta, District Bilaspur, H.P. . . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 28.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Pawan Kumar s/o Shri Jeet Ram, r/o Village Buhar, P.O. Paploa, Tehsil Jhanduta, District Bilaspur, H.P. for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 227 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 15.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Pawan Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 230 of 2021

Instituted on : 15-11-2021

Decided on : 01-12-2022

Dharmpal s/o Shri Dila Ram, r/o V.P.O. Saur, Tehsil Ramshaher, District Solan, H.P.

..Petitioner.

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P.

. . Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 28.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Dharmpal s/o Shri Dila Ram, r/o V.P.O. Saur, Tehsil Ramshaher,, District Solan, HP for his reinstatement in service before Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the Occupier/ Factory Manager of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 230 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 15.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:-

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Dharampal is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Reference Number : 231 of 2021

Instituted on : 15-11-2021

Decided on : 01-12-2022

Shammi Kumar s/o Shri Keshwa Nand, r/o Village Punehali, P.O. Kundlu, Tehsil Nalagarh, District Solan, H.P. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 28.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Shammi Kumar S/o Shri Keshwa Nand, R/o Village Punehali, P.O. Kundlu, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 231 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 15.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Shammi Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 237 of 2021

Instituted on : 15-11-2021

Decided on : 01-12-2022

Jitender Singh s/o Shri Ram Singh, r/o Ward No. 09, Nalagarh, Tehsil Nalagarh, District Solan, HP. . .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 05.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Jitender Singh S/o Shri Ram Singh, R/o Ward No. 09, Nalagarh, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 237 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 15.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Jitender Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 239 of 2021

Instituted on : 15-11-2021

Decided on : 01-12-2022

Lalit Kumar s/o Shri Shiv Om Sharma, r/o Ward No. 09, near Raj Mahal, Tehsil Nalagarh,
District Solan, H.P. . . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road,
Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 09.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Lalit Kumar s/o Shri Shiv Om Sharma, r/o Ward No. 09, near Raj Mahal, Tehsil Nalagarh, District Solan, H.P. for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 239 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 15.11.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, in fact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Lalit Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 241 of 2021

Instituted on : 09-12-2021

Decided on : 01-12-2022

Kulwant Singh S/o Shri Prem Singh, R/o Village & P.O. Dabhota, Tehsil Nalagarh, District Solan, H.P. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 25.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Kulwant Singh S/o Shri Prem Singh, R/o Village & P.O. Dabhota, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 241 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Kulwant Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 243 of 2021

Instituted on : 09-12-2021

Decided on : 01-12-2022

Husan Chand s/o Shri Heera Nand, r/o Village Ratyor, PO Dabhota, Tehsil Nalagarh District Solan, H.P. . .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 09.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Husan Chand S/o Shri Heera Nand, R/o Village Ratyor, PO Dabhota, Tehsil Nalagarh District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 243 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Husan Chand is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 246 of 2021

Instituted on : 09-12-2021

Decided on : 01-12-2022

Ajay Kumar Yadav s/o Shri Manbharan Yadav, r/o Village Dayasapra (Tandi), Tehsil Hirya, District Baliya, UP-277205. .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Adv.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 11.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Ajay Kumar Yadav s/o Shri Manbharan Yadav, r/o Village Dayasapra (Tandi), Tehsil Hirya, District Baliya, UP-277205, for his reinstatement in service before the Management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh, Bharatgarh Road, Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 246 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Ajay Kumar Yadav is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 247 of 2021

Instituted on : 09-12-2021

Decided on : 01-12-2022

Munish Kumar s/o Shri Prem Singh, r/o Village Dhulara, P.O. Dhulara, Tehsil Shihunta, District Chamba, H.P. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 11.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Munish Kumar S/o Shri Prem Singh, R/o Village Dhulara, P.O. Dhulara, Tehsil Shihunta, District Chamba, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 247 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:-

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Munish Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 248 of 2021

Instituted on : 09-12-2021

Decided on : 01-12-2022

Gaurav Verma S/o Shri Pohu Lal, R/o Village Baglehad, P.O. Panjehra, Tehsil Nalagarh, District Solan, H.P. . .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 11.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Gaurav Verma s/o Shri Pohu Lal, r/o Village Baglehad, P.O. Panjehra, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 248 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 09.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Gaurav Verma is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 272 of 2021

Instituted on : 14-12-2021

Decided on : 01-12-2022

Virender Singh S/o Shri Bihari Lal, R/o Village & P.O. Dhar Dhagad, Tehsil Dehra, District Kangra, H.P. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 26.03.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Virender Singh s/o Shri Bihari Lal, r/o Village & P.O. Dhar Dhagad, Tehsil Dehra, District Kangra, H.P. for his reinstatement in service before the management i.e. the Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 272 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 14.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, in fact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Virender Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 274 of 2021

Instituted on : 14-12-2021

Decided on : 01-12-2022

Dalip Singh Rana S/o Shri Ranjit Singh, R/o Ward No. 09, Nalagarh, Tehsil Nalagarh, District Solan, H.P. . .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 26.03.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Dalip Singh Rana s/o Shri Ranjit Singh, r/o Ward No. 09, Nalagarh, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 274 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 14.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Dalip Singh Rana is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 275 of 2021

Instituted on : 14-12-2021

Decided on : 01-12-2022

Kamaljeet Singh s/o Shri Ramesh Chand, r/o Village Darla, P.O. Naloh, Tehsil Sihunta, District Chamba, HP. . .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 09.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Kamaljeet Singh S/o Shri Ramesh Chand, R/o Village Darla P.O. Naloh, Tehsil Sihunta, District Chamba, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 275 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 14.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Kamaljeet Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 282 of 2021

Instituted on : 14-12-2021

Decided on : 01-12-2022

Praveen Kumar s/o Shri Roop Lal, r/o V.P.O. Riyur, Tehsil Sadar, District Mandi, HP.

. *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P.

. *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 09.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Praveen Kumar S/o Shri Roop Lal, R/o V.P.O. Riyur, Tehsil Sadar, District Mandi, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 282 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 14.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Praveen Kumar is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 284 of 2021

Instituted on : 14-12-2021

Decided on : 01-12-2022

Kamlesh Kumari w/o Shri Gauri Shankar, r/o Village Dugri, P.O. Malikpur, Tehsil & District Roper, Punjab. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 05.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Smt. Kamlesh Kumari w/o Shri Gauri Shankar, r/o Village Dugri, P.O. Malikpur, Tehsil & District Roper, Punjab for her reinstatement in service before Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting her resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the Occupier/ Factory Manager of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 284 of 2021 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 14.12.2021, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on her behalf has appeared before this Court which seems that presently she is not interested to pursue her case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Smt Kamlesh Kumari is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 24 of 2022

Instituted on : 14-01-2022

Decided on : 01-12-2022

Amandeep Singh s/o Shri Kawal Singh, r/o Village Bada Basot, P.O. Plasi Kalan, Tehsil Nalagarh, District Solan, HP. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. ...*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 09.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Amandeep Singh s/o Shri Kawal Singh, r/o Village Bada Basot, P.O. Plasi Kalan, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 24 of 2022 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 14.01.2022, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on his behalf has appeared before this Court which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Amandeep Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 26 of 2022

Instituted on : 14-01-2022

Decided on : 01-12-2022

Babita Devi W/o Shri Manoj Kumar, R/o Village Katorpur, P.O. Mubarakpur, Tehsil Manji, District Chapra Saran, Bihar. . .*Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 28.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Smt. Babita Devi W/o Shri Manoj Kumar, R/o Village Katorpur, P.O. Mubarakpur, Tehsil Manji, District Chapra Saran, Bihar for her reinstatement in service before Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallewal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting her resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the Occupier/ Factory Manager of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Sallweal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 26 of 2022 and accordingly, notices were issued to both the parties but despite having been served none appeared on behalf of the petitioner whereas Shri Rajiv Sharma, Advocate had appeared on behalf of the respondent.

3. This case is being listed for the service of the petitioner since 14.01.2022, but despite having been served in accordance with law, neither the petitioner nor any Counsel/AR on her behalf has appeared before this Court which seems that presently she is not interested to pursue her case arising out of reference. Therefore, I am left with no other alternative but to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:-

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

7. Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

8. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

9. In the instant case, since the petitioner has failed to appear before this Court despite having been served in accordance with law and to file any statement of claim in support of reference received from the appropriate government for its legal adjudication, in these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material which-so-ever is available on record.

10. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Smt. Babita Devi is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner herself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

11. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**BEFORE SHRI RAJESH TOMAR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Reference Number : 25 of 2022

Instituted on : 14-01-2022

Decided on : 01-12-2022

Jaswinder Singh s/o Late Shri Guralp Singh, r/o Village Dhang Uperli, P.O. Plasi Kalan,
Tehsil Nalagarh, District Solan, H.P. . *Petitioner.*

VERSUS

The Occupier/ Factory Manager, M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road,
Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.

For the Respondent : Sh. Rajeev Sharma, Advocate.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 09.06.2021, under section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to be as the Act), for its legal adjudication:

“Whether the demand of Shri Jaswinder Singh s/o Late Shri Guralp Singh, r/o Village Dhang Uperli, P.O. Plasi Kalan, Tehsil Nalagarh, District Solan, HP for his reinstatement in service before the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. after submitting his resignation as per clause-1 of the settlement dated 20.02.2020 arrived at u/s 18(1) of the Industrial Dispute Act, 1947 between the management of M/s Penguin Electronics Ltd., Nalagarh Bharatgarh Road, Village Salawal, P.O. Bhatian, Tehsil Nalagarh, District Solan, H.P. and the representatives of the workers union and after receiving full and final amount of Rs. 2.00 Lac as per clause-2 of the said settlement, is proper and justified? If yes, what relief the above aggrieved workman is entitled to from the above management?”

2. On receiving the aforesaid reference, an Industrial Dispute has arisen between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 25 of 2022 and accordingly, notices were issued to both the parties but neither the petitioner nor his Counsel had ever appeared before this Tribunal whereas Sh. Rajat Sharma, Advocate had appeared for respondent on 25.03.2022.

3. This case is being listed for filing of claim since 25.03.2022 but till date the petitioner has failed to file any statement of claim despite the fact that he has already availed 10 opportunities to file statement of claim but in vain which seems that presently he is not interested to pursue his case arising out of reference. Therefore, I am left with no other alternative but to close the right of the petitioner to file statement of claim and to decide the present reference on the basis of material, whatsoever is available on record.

4. At the very inception, it will be apt to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act, which defines the Award as hereunder:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

5. Furthermore, Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

6. Whereas, The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.”

Similarly, Rule 25 thereof which reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

7. Again, Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an ex parte award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, in all fairness, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue her/his case.

8. In the instant case, since the petitioner has failed to file any statement of claim despite having been availed 10 opportunities. In these circumstances, the Labour Court/Tribunal can proceed and pass award. On the basis of material whichever is available on record.

9. This Court is constrained to draw an adverse inference to the factum that the petitioner namely Sh. Jaswinder Singh is not interested in pursuing further. The case is lingering upon for the fault of none than other but the petitioner himself. Hence, this Court/Tribunal is left with no other alternate/option then to consign this reference petition to the record room and it is ordered accordingly. This reference petition will be taken up, as and when, anyone will put in appearance before this Tribunal to prosecute this reference petition and get the file revives after filing appropriate application.

10. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of December, 2022.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

राजस्व विभाग

अधिसूचना

शिमला-02, 27 मार्च, 2023

संख्या: रैव-डी(जी)7-1/2018-वालयूम-1.—हिमाचल प्रदेश भूमि-अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता अधिकार (सामाजिक समाघात निर्धारण एवं सहमति) नियम, 2015 के नियम 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राज्यपाल, हिमाचल प्रदेश गांव मशोबरा, तहसील शिमला (ग्रामीण), जिला शिमला, हिमाचल प्रदेश में डाकघर भवन निर्माण हेतु प्रस्तावित भूमि अर्जन के प्रयोजन से सामाजिक समाघात निर्धारण अध्ययन करने हेतु निम्न सामाजिक समाघात निर्धारण इकाई अधिसूचित करते हैं।

गांव मशोबरा, तहसील शिमला (ग्रामीण), जिला शिमला, हिमाचल प्रदेश में प्रस्तावित भूमि खसरा नम्बर 1023, 1057, 1056, 1058, 1059, 1060 और 1061, कित्ता-7, कुल रकबा 387-56 वर्ग मीटर डाक विभाग, भारत सरकार द्वारा कार्यालय भवन डाकघर मशोबरा के उद्देश्य हेतु अधिगृहीत किया जाना है।

अतः, यह स्पष्ट किया जाता है कि सामाजिक मूल्यांकन निर्धारण के दौरान प्रपीडन या धमकी देने का कोई भी प्रयास इस मेहनत को शून्य बना देगा और सामाजिक समाघात निर्धारण इसके प्रारम्भ होने के छह महीने की अवधि के भीतर किया जाएगा। सामाजिक समाघात निर्धारण इकाई परामर्श, सर्वेक्षण और जन सुनवाई करेगी। सामाजिक समाघात निर्धारण इकाई यह भी सुनिश्चित करेगी कि सामाजिक समाघात निर्धारण अध्ययन करने के प्रक्रम में पंचायतों और ग्राम सभा के प्रतिनिधियों को पर्याप्त प्रतिनिधित्व दिया जाए।

सामाजिक समाघात निर्धारण अध्ययन करते समय, सामाजिक समाघात निर्धारण इकाई, अन्य बातों के साथ-साथ परियोजना के संभावित अन्य विभिन्न घटकों पर पड़ने वाले प्रभावों जैसे प्रभावित परिवारों की आजीविका, सार्वजनिक और सामुदायिक संपत्तियों के निर्धारण और अवसंरचना विशिष्टतया सड़कों, सार्वजनिक परिवहन, जल निकासी, स्वच्छता, पीने के पानी के स्रोत, मवेशियों के लिए पानी के स्रोत, सामुदायिक तालाब, चारागाह भूमि, वृक्षारोपण, सार्वजनिक उपयोगिता जैसे डाकघर, उचित मूल्य की दुकानें, खाद्य भंडारण गोदाम, बिजली की आपूर्ति, स्वास्थ्य देखभाल सुविधाएं, स्कूल और शैक्षिक और प्रशिक्षण सुविधाएं, आंगनवाड़ी, बाल उद्यान, पूजा स्थल, पारंपरिक जनजातीय संस्थानों के लिए भूमि और कब्रिस्तान और श्मशान घाट को भी ध्यान में रखेगी। सामाजिक समाघात निर्धारण इकाई अधिनियम, 2013 की धारा 4(4) और उसके अधीन बनाए गए नियमों के अधीन सभी मदों को समाविष्ट करेगी।

सामाजिक समाघात निर्धारण इकाई द्वारा परामर्श, सर्वेक्षण और जन सुनवाई की प्रक्रिया पूर्ण करने के उपरान्त नियम 3 के उप-नियम (3) के अधीन प्ररूप-II के अनुसार एक सामाजिक समाघात निर्धारण अध्ययन रिपोर्ट और एक सामाजिक समाघात प्रबंधन योजना, नियम 3 के उप-नियम (4) के अधीन प्ररूप-III में किसी विनिर्दिष्ट घटक के लिए समाघात का समाधान करने हेतु किए जाने के लिए अपेक्षित सुधारात्मक उपायों को सूचीबद्ध करते हुए तैयार की जाएगी।

डाक विभाग, भारत सरकार का एक विभाग है और डाक विभाग के पक्ष में प्रस्तावित भूमि अर्जन, भूमि अर्जन पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता अधिकार अधिनियम, 2013 की धारा 2(1)(ख) के अधीन प्रस्तावित किया जा रहा है। अतः उक्त अधिनियम, 2013 की धारा 2(2) के अधीन सहमति उपबंध इस विभाग पर लागू नहीं होगा।

हिमाचल प्रदेश राजस्व विभाग द्वारा अधिसूचना संख्या: रैव-बी.ए.(3)-3/2014-II, तारीख 27/11/2015 के अधीन पहले ही राज्य सामाजिक समाघात निर्धारण इकाई का गठन किया गया है, अतः सर्व साधारण की सूचना हेतु इकाई की सम्पर्क-सूचना निम्न प्रकार है:-

क्र० सं०	नाम एवं पता		सम्पर्क सूचना
1.	निदेशक, हिमाचल प्रदेश लोक प्रशासन संस्थान, फेयरलॉन, शिमला-12.	अध्यक्ष	0177-2734777
2.	संयुक्त सचिव (राजस्व), हिमाचल प्रदेश सरकार, शिमला-02.	सदस्य सचिव	0177-2880693
3.	प्रभारी, राज्य ग्रामीण विकास संस्थान, हिमाचल प्रदेश लोक प्रशासन संस्थान, फेयरलॉन, शिमला-12.	सदस्य	94595-82482
4.	समाजशास्त्र और सामाजिक कार्य विभाग के प्रमुख, हिमाचल प्रदेश विश्वविद्यालय, शिमला-5.	सदस्य	0177-2833872
5.	मुख्य वैज्ञानिक अधिकारी, पर्यावरण विज्ञान एवं प्रौद्योगिकी विभाग, शिमला, हिमाचल प्रदेश.	सदस्य	0177-2816047

आदेश द्वारा,

हस्ताक्षरित / —
प्रधान सचिव (राजस्व)।

[Authoritative English Text of this Department Notification No. Rev-D (G)7-1/2018-Vol-I, dated 27-03-2023 as required under Clause 3 of Article 348 of the Constitution of India].

REVENUE DEPARTMENT

NOTIFICATION

Shimla-171 002, the 27th March, 2023

Rev-D (G) 7-1/2018-Vol-I.—In exercise of powers conferred by rule 3 of the Himachal Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2015, the Governor of Himachal Pradesh is pleased to notify the Social Impact Assessment Unit as under to carry out Social Impact Assessment Study for the purpose of Land Acquisition for c/o Post Office Building, Mashobra situated at Village Mashobra, Tehsil Shimla (Rural), District Shimla (H.P.).

The proposed land at Village Mashobra, Tehsil Shimla (Rural) District Shimla (H.P.) comprised in Khasra No. 1023, 1057, 1056, 1058, 1059, 1060 and 1061, Kita-7, Total Land measuring 387.56 Sq. meter is to be acquired by the postal department, Government of India with the objectives for office building of Post office Mashobra.

Thus, it is made clear that any attempt at coercion or threat during Social Assessment will render this exercise as null and void and the Social Impact Assessment will be carried out within a period of six months from its commencement. The Social Impact Assessment Unit shall hold consultations, survey and public hearings. The Social impact Assessment Unit shall also ensure that adequate representation be given to the representatives of Panchayats and Gram Sabha, at the stage of carrying out the Social Impact Assessment study.

While undertaking a Social Impact Assessment Study the Social Impact Assessment Unit shall amongst other things, take into consideration the impact the project is likely to have on various components such as livelihood of affected families, public and community properties assess

and infrastructure particularly roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantation, public utilities such as post office, fair price shops, food storage godowns, electric supply, health care facilities, school and educational and training facilities, aganwadis, children parks, places of worship, land for traditional tribal institutions and burial and cremation grounds. The Social Impact Assessment unit shall cover all the items under Section 4(4) of the Act, 2013 and rules framed thereunder.

The Social Impact Assessment Unit after completion of consultations, survey and public hearing shall prepare a Social Impact Assessment Study Report in Form-II under sub-rule 3 of Rule 3 and a Social Impact Management Plan, listing the ameliorative measure required to be undertaken for addressing the impact for a specific component in Form-III under sub rule 4 of Rule 3.

Postal Department is a department of Government of India and the land is being proposed to acquire in favour of Postal Department under section 2(1) (b) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act, 2013. Therefore, consent provision as laid down under section 2(2) of the Act, 2013 shall not apply on this department.

The Himachal Pradesh Revenue Department *vide* Notification No. Rev-B.A(3)3/2014-II dated 27-11-2015 has already constituted the State Social Impact Assessment Unit, hence, for the information of the general public, the contact information of unit is as under:—

Sl. No.	Name & Address		Contact Information
1.	Director, Himachal Pradesh Institute of Public Administration, Fairlawns, Shimla-12.	Chairperson	0177-2734777
2.	Joint Secretary (Revenue) to the Government of Himachal Pradesh, Shimla-2.	Member Secretary	0177-2880693
3.	The Incharge State Institute of Rural Development, HIPA Shimla-12.	Member	94595-82482
4.	Head of Department of Sociology and Social Work, H.P. University, Shimla-5.	Member	0177-2833872
5.	Chief Scientific Officer, Department of Environment, Science & Technology, Shimla, H.P.	Member	0177-2816047

By order,
Sd/-
Principal Secretary (Revenue).

राजस्व विभाग

अधिसूचना

शिमला-02, 27 मार्च, 2023

राजस्व-डी (जी) 7-1/19 वॉल्यूम-II.—प्रारम्भिक अधिसूचना संख्या राजस्व-डी (जी) 7-1/19 वॉल्यूम-II, तारीख 06-6-2022 द्वारा भूमि अर्जन, पुनर्वास और पुनर्व्यवस्थापन में उचित प्रतिकर और

पारदर्शिता अधिकार अधिनियम, 2013 की धारा 11 के अधीन अधिसूचित किया गया था कि इससे संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) सीमा सड़क संगठन, रक्षा मंत्रालय, भारत सरकार द्वारा तहसील मनाली, जिला कुल्लू, हिमाचल प्रदेश में पलचान बाइपास सड़क का सन्निर्माण करने हेतु वांछित थी या संभाव्य वांछित थी;

अतः पूर्वोक्त अधिनियम की धारा 19 के उपबन्धों के अधीन एतद्वारा घोषित किया जाता है कि 08-10-30 हैक्टेयर के मानक माप वाला कुल भूमि क्षेत्र, जिसका विस्तृत fooj.k@fofunsZ”k निम्नानुसार है, सीमा सड़क संगठन, रक्षा मंत्रालय, भारत सरकार द्वारा तहसील मनाली, जिला कुल्लू, हिमाचल प्रदेश में पलचान बाइपास सड़क का सन्निर्माण करने हेतु अपेक्षित है:—

विनिर्देश

प्राइवेट भूमि

महाल बुरुआ, फाटी बुरुआ, तहसील मनाली, जिला कुल्लू (हि0 प्र0)

क्रम संख्या	महाल नाम	तहसील	जिला	खेवट	खतौनी	खसरा नम्बर		रकबा
1.	बुरुआ	मनाली	कुल्लू	244 मिन	333 मिन	19	19 / 1	00-00-20
2.	-do-	-do-	-do-	269	366	20	20 / 1	00-01-58
3.	-do-	-do-	-do-	236	321	21	21 / 1	00-04-01
4.	-do-	-do-	-do-	235	320	22	22 / 1	00-07-30
5.	-do-	-do-	-do-	266 मिन	361	23	23 / 1	00-02-42
6.	-do-	-do-	-do-	241	327	24	24 / 1	00-07-50
7.	-do-	-do-	-do-	273	377	25	25 / 1	00-02-31
8.	-do-	-do-	-do-	266 मिन	362	26	26 / 1	00-00-12
9.	-do-	-do-	-do-	272	369	28	28 / 1	00-03-28
10.	-do-	-do-	-do-	265 मिन	360 मिन	34	34 / 1	00-04-25
11.	-do-	-do-	-do-	264 मिन	359 मिन	35	35 / 1	00-01-16
12.	-do-	-do-	-do-	265 मिन	360 मिन	39	सालम	00-01-39
13.	-do-	-do-	-do-	265 मिन	360 मिन	40	सालम	00-01-84
14.	-do-	-do-	-do-	265 मिन	360 मिन	41	सालम	00-05-89
15.	-do-	-do-	-do-	265 मिन	360 मिन	42	सालम	00-05-89
16.	-do-	-do-	-do-	244	331	50	50 / 1	00-04-17
17.	-do-	-do-	-do-	244	331	50	50 / 2	00-02-49
18.	-do-	-do-	-do-	244	331	50	50 / 3	00-00-50
19.	-do-	-do-	-do-	264 मिन	359 मिन	63	63 / 1	00-01-05
20.	-do-	-do-	-do-	242 मिन	328	64	64 / 1	00-01-68
21.	-do-	-do-	-do-	242 मिन	329 मिन	65	65 / 1	00-00-35
22.	-do-	-do-	-do-	251 मिन	339 मिन	79	79 / 1	00-11-66
23.	-do-	-do-	-do-	288	385	83	83 / 1	00-05-85
24.	-do-	-do-	-do-	251 मिन	339 मिन	84	84 / 1	00-13-22
25.	-do-	-do-	-do-	248 मिन	335 मिन	88	88 / 1	00-17-09
26.	-do-	-do-	-do-	59	82	119	119 / 1	00-05-35
27.	-do-	-do-	-do-	53 मिन	74	122	122 / 1	00-00-09
28.	-do-	-do-	-do-	51 मिन	72 मिन	125	125 / 1	00-01-96
29.	-do-	-do-	-do-	66 मिन	97 मिन	126	126 / 1	00-05-47
30.	-do-	-do-	-do-	57 मिन	78 मिन	127	127 / 1	00-03-78
31.	-do-	-do-	-do-	64 मिन	87 मिन	128	128 / 1	00-00-91
32.	-do-	-do-	-do-	131	190	147	147 / 1	00-04-20
33.	-do-	-do-	-do-	276 मिन	373 मिन	148	148 / 1	00-16-48
34.	-do-	-do-	-do-	287 मिन	384 मिन	151	151 / 1	00-00-24
35.	-do-	-do-	-do-	98	142	152	152 / 1	00-12-50

36.	-do-	-do-	-do-	12	17	153	153 / 1	00-04-08
37.	-do-	-do-	-do-	270 मिन	367 मिन	155	155 / 2 / 1	00-00-21
38.	-do-	-do-	-do-	270 मिन	367 मिन	155 / 3	155 / 3 / 1	00-00-36
39.	-do-	-do-	-do-	73 मिन	107 मिन	160	160 / 1	00-00-78
40.	-do-	-do-	-do-	73 मिन	107 मिन	163	163 / 1	00-18-24
41.	-do-	-do-	-do-	25 मिन	36 मिन	165	165 / 1	00-13-74
42.	-do-	-do-	-do-	18	25	166	166 / 1	00-11-23
43.	-do-	-do-	-do-	43 मिन	61 मिन	199	199 / 1	00-03-36
44.	-do-	-do-	-do-	31 मिन	44 मिन	200 / 1	सालम	00-06-39
45.	-do-	-do-	-do-	31 मिन	44 मिन	200 / 2	200 / 2 / 1	00-01-78
46.	-do-	-do-	-do-	114 मिन	168 मिन	206	206 / 1	00-10-64
47.	-do-	-do-	-do-	114 मिन	169 मिन	207	सालम	00-00-86
48.	-do-	-do-	-do-	114 मिन	159 मिन	208	208 / 1	00-09-51
49.	-do-	-do-	-do-	308 मिन	410 मिन	212	212 / 1	00-14-22
50.	-do-	-do-	-do-	308 मिन	410 मिन	213	213 / 1	00-14-55
51.	-do-	-do-	-do-	116 मिन	173 मिन	217	217 / 1	00-21-50
52.	-do-	-do-	-do-	49 मिन	69 मिन	327	327 / 1	00-13-79
53.	-do-	-do-	-do-	49 मिन	69 मिन	328	328 / 1	00-06-61
54.	-do-	-do-	-do-	285 मिन	382 मिन	329	329 / 1	00-04-86
55.	-do-	-do-	-do-	286 मिन	383 मिन	1775 / 332	1775 / 332 / 1	00-02-21
56.	-do-	-do-	-do-	284 मिन	381 मिन	1776 / 332	1776 / 332 / 1	00-08-70
57.	-do-	-do-	-do-	153	217	337	337 / 1	00-01-15
58.	-do-	-do-	-do-	154 मिन	218 मिन	339	339 / 1	00-01-35
59.	-do-	-do-	-do-	306 मिन	405 मिन	340	340 / 1	00-03-30
60.	-do-	-do-	-do-	306 मिन	405 मिन	341	341 / 1	00-15-22
61.	-do-	-do-	-do-	300 मिन	399 मिन	344	344 / 1	00-00-23
62.	-do-	-do-	-do-	308 मिन	410 मिन	345	345 / 1	00-08-11
63.	-do-	-do-	-do-	154 मिन	218 मिन	346	सालम	00-02-59
64.	-do-	-do-	-do-	308 मिन	410 मिन	347	347 / 1	00-02-52
65.	-do-	-do-	-do-	106 मिन	156 मिन	352	352 / 1	00-02-61
66.	-do-	-do-	-do-	106 मिन	155 मिन	353	353 / 1	00-03-32
67.	-do-	-do-	-do-	102 मिन	148 मिन	354	354 / 1	00-03-23
68.	-do-	-do-	-do-	85 मिन	125 मिन	355	355 / 1	00-03-28
69.	-do-	-do-	-do-	158	222	360	360 / 1	00-18-81
70.	-do-	-do-	-do-	25 मिन	37 मिन	364	364 / 1	00-05-14
71.	-do-	-do-	-do-	25 मिन	36 मिन	365	365 / 1	00-07-34
72.	-do-	-do-	-do-	25 मिन	37 मिन	366	366 / 1	00-01-82
73.	-do-	-do-	-do-	49 मिन	69 मिन	367	367 / 1	00-08-59
74.	-do-	-do-	-do-	49 मिन	69 मिन	368	सालम	00-02-89
75.	-do-	-do-	-do-	49 मिन	69 मिन	369	सालम	00-02-41
76.	-do-	-do-	-do-	49 मिन	70	370	370 / 1	00-01-32
77.	-do-	-do-	-do-	20	29	371	371 / 1	00-06-84
78.	-do-	-do-	-do-	157 मिन	221 मिन	402	402 / 1	00-11-42
79.	-do-	-do-	-do-	157 मिन	221 मिन	403	सालम	00-05-48
80.	-do-	-do-	-do-	157 मिन	221 मिन	405	405 / 1	00-03-88
81.	-do-	-do-	-do-	157 मिन	221 मिन	406	406 / 1	00-09-39
82.	-do-	-do-	-do-	108 मिन	159 मिन	417	417 / 1	00-00-98
83.	-do-	-do-	-do-	162 मिन	229 मिन	418	सालम	00-05-90
84.	-do-	-do-	-do-	108 मिन	159 मिन	419	419 / 1	00-00-60
85.	-do-	-do-	-do-	110 मिन	161 मिन	423	423 / 1	00-04-13
86.	-do-	-do-	-do-	94 मिन	134	424	सालम	00-14-51
87.	-do-	-do-	-do-	114 मिन	168 मिन	441	441 / 1	00-04-17
88.	-do-	-do-	-do-	104 मिन	151 मिन	442	442 / 1	00-14-26
89.	-do-	-do-	-do-	104 मिन	151 मिन	443	443 / 1	00-07-92

90.	-do-	-do-	-do-	104 मिन	151 मिन	444	444 / 1	00-00-10
91.	-do-	-do-	-do-	104 मिन	151 मिन	457	457 / 1	00-10-20
92.	-do-	-do-	-do-	26 मिन	38 मिन	459	459 / 1	00-14-70
93.	-do-	-do-	-do-	3 मिन	4 मिन	462	462 / 1	00-03-92
94.	-do-	-do-	-do-	3 मिन	4 मिन	464	464 / 1	00-04-76
95.	-do-	-do-	-do-	4 मिन	5 मिन	466	466 / 1	00-12-51
96.	-do-	-do-	-do-	24	35	946	946 / 1	00-05-81
97.	-do-	-do-	-do-	134 मिन	194 मिन	949	949 / 1	00-02-07
98.	-do-	-do-	-do-	134 मिन	194 मिन	950	950 / 2	00-03-11
99.	-do-	-do-	-do-	135 मिन	196 मिन	952	952 / 2	00-02-83
100.	-do-	-do-	-do-	4 मिन	6	953	953 / 2	00-01-39
101.	-do-	-do-	-do-	134 मिन	194 मिन	956	956 / 1	00-00-12
102.	-do-	-do-	-do-	134 मिन	194 मिन	957	957 / 1	00-00-60
103.	-do-	-do-	-do-	134 मिन	194 मिन	958	सालम	00-04-08
104.	-do-	-do-	-do-	135	196	959	सालम	00-03-15
105.	-do-	-do-	-do-	134 मिन	194 मिन	960	960 / 1	00-09-32
106.	-do-	-do-	-do-	134 मिन	194 मिन	969	969 / 1	00-00-05
107.	-do-	-do-	-do-	134 मिन	194 मिन	971	971 / 1	00-00-46
108.	-do-	-do-	-do-	134 मिन	194 मिन	972	972 / 1	00-00-90
109.	-do-	-do-	-do-	134 मिन	194 मिन	972	972 / 3	00-00-12
110.	-do-	-do-	-do-	180 मिन	256 मिन	973	973 / 1	00-04-24
111.	-do-	-do-	-do-	181 मिन	259 मिन	974	974 / 1	00-15-19
							किता -111	06-10-14

प्राइवेट भूमि

महाल बुरुआ मझाच, फाटी बुरुआ, तहसील मनाली, जिला कुल्लू (हि0 प्र0)

क्रम संख्या	महाल नाम	तहसील	जिला	खेवट	खतोनी	खसरा नम्बर		रकबा (बीघा में)
						साबका	हाल	
1.	बुरुआ मझाच	मनाली	कुल्लू	720 मिन	1174 मिन	225	225 / 1	3-15-17 (0-30-64) है0
2.	-do-	-do-	-do-	51 मिन	84 मिन	231	231 / 1	0-9-12 (0-03-88) है0
3.	-do-	-do-	-do-	54 मिन	89 मिन	232	232 / 1	1-5-13 (0-10-36) है0
4.	-do-	-do-	-do-	646 मिन	1064 मिन	1482	1482 / 1	3-13-4 (0-29-57) है0
5.	-do-	-do-	-do-	188 मिन	334 मिन	1483	1483 / 1	1-7-16 (0-11-23) है0
6.	-do-	-do-	-do-	191 मिन	343 मिन	1484	सालम	0-16-0 (0-06-46) है0
7.	-do-	-do-	-do-	187 मिन	333 मिन	1485	सालम	5-3-0 (0-41-16) है0
8.	-do-	-do-	-do-	7 मिन		1486	1486 / 1	1-6-1 (0-10-52) है0
9.	-do-	-do-	-do-	164 मिन	292 मिन	1490	1490 / 1	1-11-5 (0-12-65) है0
10.	-do-	-do-	-do-	164 मिन	292 मिन	1493	1493 / 1	0-13-19 (0-05-63) है0
11.	-do-	-do-	-do-	30 मिन	54 मिन	1494	1494 / 1	1-10-19 (0-12-50) है0
12.	-do-	-do-	-do-	207 मिन	379 मिन	1495	1495 / 1	0-19-16 (0-08-00) है0

13.	-do-	-do-	-do-	207 मिन	379 मिन	1495	1495/2	0-14-0 (0-05-66) है0
14.	-do-	-do-	-do-	203 मिन	370 मिन	1496	1496/1	1-4-14 (0-09-98) है0
15.	-do-	-do-	-do-	203 मिन	370 मिन	1496/1	1496/1/1	0-3-13 (0-01-47) है0
								किता 15 24-15-09 बीघा (02-00-16) है0

कुल अर्जित भूमि:-08-10-30 हैक्टेयर

उपरोक्त यथा संलग्न इस भूमि का अर्जन देश के सामरिक महत्व के सीमा क्षेत्र की संयोजकता सुनिश्चित करने हेतु तत्काल अपेक्षित है, जो अधिनियम, की धारा 40 में यथा परिकल्पित "भारत की प्रतिरक्षा/राष्ट्रीय सुरक्षा के लिए अपेक्षित उपबन्ध के अधीन अर्जन की परिभाषा के अधीन आता है और इस प्रकार ये विनिश्चित किया गया है कि अध्याय-II, अध्याय-III, अध्याय-VI, की धारा, 12 से 18, अध्याय-V, और अध्याय-VI, में अंतर्विष्ट उपबन्ध इस अर्जन हेतु लागू नहीं होंगे।

आदेश द्वारा,

हस्ताक्षरित /—
प्रधान सचिव (राजस्व)।

[Authoritative English text of this Department Notification No. Rev-D(G)7-1/2019-Vol-II, dated 27-03-2023 as required under clause 3 of Article 348 of the Constitution of India].

REVENUE DEPARTMENT

NOTIFICATION

Shimla-171 002, the 27th March, 2023

Rev-D (G) 7-1/2019-Vol-II.—WHEREAS, *vide* preliminary Notification No. Rev-D(G)7-1/2019-II, dated 06-06-2022, it was notified under section 11 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 that the land described in the schedule hereto (there after referred to as the said land) were needed or likely to be needed for the construction of Palchan Bypass Road by the Border Road Organization Ministry of Defence, Government of India in Tehsil Manali, District Kullu, H.P.

NOW THEREFORE, it is hereby declared under the provision of section 19 of the Act *ibid*, that the total land area measuring 08-10-30 hectare of standard measurement, whose detailed description/specification, is as follows, is required for the construction of Palchan Bypass Road by the Boader Road Organization, Ministry of Defence, Government of India in Tehsil Manali, District Kullu, H.P:

SPECIFICATIONS**Private land**

Muhali Burua, Phati Burua, Tehsil Manali District, Kullu (H.P.)

Sl. No.	Name Muhali	Tehsil	Distt	Khewat	Khatouni	Khasra No.		Measuring
1.	Burua	Manali	Kullu	244 Min	333Min	19	19/1	00-00-20
2.	-do-	-do-	-do-	269	366	20	20/1	00-01-58
3.	-do-	-do-	-do-	236	321	21	21/1	00-04-01
4.	-do-	-do-	-do-	235	320	22	22/1	00-07-30
5.	-do-	-do-	-do-	266 Min	361	23	23/1	00-02-42
6.	-do-	-do-	-do-	241	327	24	24/1	00-07-50
7.	-do-	-do-	-do-	273	377	25	25/1	00-02-31
8.	-do-	-do-	-do-	266 Min	362	26	26/1	00-00-12
9.	-do-	-do-	-do-	272	369	28	28/1	00-03-28
10.	-do-	-do-	-do-	265 Min	360 Min	34	34/1	00-04-25
11.	-do-	-do-	-do-	264 Min	359 Min	35	35/1	00-01-16
12.	-do-	-do-	-do-	265 Min	360 Min	39	Salam	00-01-39
13.	-do-	-do-	-do-	265 Min	360 Min	40	Salam	00-01-84
14.	-do-	-do-	-do-	265 Min	360 Min	41	Salam	00-05-89
15.	-do-	-do-	-do-	265 Min	360 Min	42	Salam	00-05-89
16.	-do-	-do-	-do-	244	331	50	50/1	00-04-17
17.	-do-	-do-	-do-	244	331	50	50/2	00-02-49
18.	-do-	-do-	-do-	244	331	50	50/3	00-00-50
19.	-do-	-do-	-do-	264 Min	359 Min	63	63/1	00-01-05
20.	-do-	-do-	-do-	242 Min	328	64	64/1	00-01-68
21.	-do-	-do-	-do-	242 Min	329 Min	65	65/1	00-00-35
22.	-do-	-do-	-do-	251 Min	339 Min	79	79/1	00-11-66
23.	-do-	-do-	-do-	288	385	83	83/1	00-05-85
24.	-do-	-do-	-do-	251 Min	339 Min	84	84/1	00-13-22
25.	-do-	-do-	-do-	248 Min	335 Min	88	88/1	00-17-09
26.	-do-	-do-	-do-	59	82	119	119/1	00-05-35
27.	-do-	-do-	-do-	53 Min	74	122	122/1	00-00-09
28.	-do-	-do-	-do-	51 Min	72 Min	125	125/1	00-01-96
29.	-do-	-do-	-do-	66 Min	97 Min	126	126/1	00-05-47
30.	-do-	-do-	-do-	57 Min	78 Min	127	127/1	00-03-78
31.	-do-	-do-	-do-	64 Min	87 Min	128	128/1	00-00-91
32.	-do-	-do-	-do-	131	190	147	147/1	00-04-20
33.	-do-	-do-	-do-	276 Min	373 Min	148	148/1	00-16-48
34.	-do-	-do-	-do-	287 Min	384 Min	151	151/1	00-00-24
35.	-do-	-do-	-do-	98	142	152	152/1	00-12-50
36.	-do-	-do-	-do-	12	17	153	153/1	00-04-08
37.	-do-	-do-	-do-	270 Min	367 Min	155	155/2/1	00-00-21
38.	-do-	-do-	-do-	270 Min	367 Min	155/3	155/3/1	00-00-36
39.	-do-	-do-	-do-	73 Min	107 Min	160	160/1	00-00-78
40.	-do-	-do-	-do-	73 Min	107 Min	163	163/1	00-18-24
41.	-do-	-do-	-do-	25 Min	36 Min	165	165/1	00-13-74
42.	-do-	-do-	-do-	18	25	166	166/1	00-11-23
43.	-do-	-do-	-do-	43 Min	61 Min	199	199/1	00-03-36
44.	-do-	-do-	-do-	31 Min	44 Min	200/1	Salam	00-06-39
45.	-do-	-do-	-do-	31 Min	44 Min	200/2	200/2/1	00-01-78
46.	-do-	-do-	-do-	114 Min	168 Min	206	206/1	00-10-64
47.	-do-	-do-	-do-	114 Min	169 Min	207	Salam	00-00-86
48.	-do-	-do-	-do-	114 Min	159 Min	208	208/1	00-09-51
49.	-do-	-do-	-do-	308 Min	410 Min	212	212/1	00-14-22
50.	-do-	-do-	-do-	308 Min	410 Min	213	213/1	00-14-55

51.	-do-	-do-	-do-	116 Min	173 Min	217	217/1	00-21-50
52.	-do-	-do-	-do-	49 Min	69 Min	327	327/1	00-13-79
53.	-do-	-do-	-do-	49 Min	69 Min	328	328/1	00-06-61
54.	-do-	-do-	-do-	285 Min	382 Min	329	329/1	00-04-86
55.	-do-	-do-	-do-	286 Min	383 Min	1775/332	1775/332/1	00-02-21
56.	-do-	-do-	-do-	284 Min	381 Min	1776/332	1776/332/1	00-08-70
57.	-do-	-do-	-do-	153	217	337	337/1	00-01-15
58.	-do-	-do-	-do-	154 Min	218 Min	339	339/1	00-01-35
59.	-do-	-do-	-do-	306 Min	405 Min	340	340/1	00-03-30
60.	-do-	-do-	-do-	306 Min	405 Min	341	341/1	00-15-22
61.	-do-	-do-	-do-	300 Min	399 Min	344	344/1	00-00-23
62.	-do-	-do-	-do-	308 Min	410 Min	345	345/1	00-08-11
63.	-do-	-do-	-do-	154 Min	218 Min	346	Salam	00-02-59
64.	-do-	-do-	-do-	308 Min	410 Min	347	347/1	00-02-52
65.	-do-	-do-	-do-	106 Min	156 Min	352	352/1	00-02-61
66.	-do-	-do-	-do-	106 Min	155 Min	353	353/1	00-03-32
67.	-do-	-do-	-do-	102 Min	148 Min	354	354/1	00-03-23
68.	-do-	-do-	-do-	85 Min	125 Min	355	355/1	00-03-28
69.	-do-	-do-	-do-	158	222	360	360/1	00-18-81
70.	-do-	-do-	-do-	25 Min	37 Min	364	364/1	00-05-14
71.	-do-	-do-	-do-	25 Min	36 Min	365	365/1	00-07-34
72.	-do-	-do-	-do-	25 Min	37 Min	366	366/1	00-01-82
73.	-do-	-do-	-do-	49 Min	69 Min	367	367/1	00-08-59
74.	-do-	-do-	-do-	49 Min	69 Min	368	Salam	00-02-89
75.	-do-	-do-	-do-	49 Min	69 Min	369	Salam	00-02-41
76.	-do-	-do-	-do-	49 Min	70	370	370/1	00-01-32
77.	-do-	-do-	-do-	20	29	371	371/1	00-06-84
78.	-do-	-do-	-do-	157 Min	221 Min	402	402/1	00-11-42
79.	-do-	-do-	-do-	157 Min	221 Min	403	Salam	00-05-48
80.	-do-	-do-	-do-	157 Min	221 Min	405	405/1	00-03-88
81.	-do-	-do-	-do-	157 Min	221 Min	406	406/1	00-09-39
82.	-do-	-do-	-do-	108 Min	159 Min	417	417/1	00-00-98
83.	-do-	-do-	-do-	162 Min	229 Min	418	Salam	00-05-90
84.	-do-	-do-	-do-	108 Min	159 Min	419	419/1	00-00-60
85.	-do-	-do-	-do-	110 Min	161 Min	423	423/1	00-04-13
86.	-do-	-do-	-do-	94 Min	134	424	Salam	00-14-51
87.	-do-	-do-	-do-	114 Min	168 Min	441	441/1	00-04-17
88.	-do-	-do-	-do-	104 Min	151 Min	442	442/1	00-14-26
89.	-do-	-do-	-do-	104 Min	151 Min	443	443/1	00-07-92
90.	-do-	-do-	-do-	104 Min	151 Min	444	444/1	00-00-10
91.	-do-	-do-	-do-	104 Min	151 Min	457	457/1	00-10-20
92.	-do-	-do-	-do-	26 Min	38 Min	459	459/1	00-14-70
93.	-do-	-do-	-do-	3 Min	4 Min	462	462/1	00-03-92
94.	-do-	-do-	-do-	3 Min	4 Min	464	464/1	00-04-76
95.	-do-	-do-	-do-	4 Min	5 Min	466	466/1	00-12-51
96.	-do-	-do-	-do-	24	35	946	946/1	00-05-81
97.	-do-	-do-	-do-	134 Min	194 Min	949	949/1	00-02-07
98.	-do-	-do-	-do-	134 Min	194 Min	950	950/2	00-03-11
99.	-do-	-do-	-do-	135 Min	196 Min	952	952/2	00-02-83
100.	-do-	-do-	-do-	4 Min	6	953	953/2	00-01-39
101.	-do-	-do-	-do-	134 Min	194 Min	956	956/1	00-00-12
102.	-do-	-do-	-do-	134 Min	194 Min	957	957/1	00-00-60
103.	-do-	-do-	-do-	134 Min	194 Min	958	Salam	00-04-08
104.	-do-	-do-	-do-	135	196	959	Salam	00-03-15
105.	-do-	-do-	-do-	134 Min	194 Min	960	960/1	00-09-32
106.	-do-	-do-	-do-	134 Min	194 Min	969	969/1	00-00-05
107.	-do-	-do-	-do-	134 Min	194 Min	971	971/1	00-00-46
108.	-do-	-do-	-do-	134 Min	194 Min	972	972/1	00-00-90
109.	-do-	-do-	-do-	134 Min	194 Min	972	972/3	00-00-12

110.	-do-	-do-	-do-	180 Min	256 Min	973	973/1	00-04-24
111.	-do-	-do-	-do-	181 Min	259 Min	974	974/1	00-15-19
							Kita-111	06-10-14

Private Land

Muhal Burua Majhach, Phati Burua, Tehsil Manali District Kullu, (H. P.)

Sl. No.	Name Muhal	Tehsil	Distt.	Khewat	Khatouni	Khasra		Measuring (Bigha)/ Hectare
						Old	New	
1.	Burua Majhach	Manali	Kullu	720 Min	1174 Min	225	225/1	03.15.17 0.30.64 Hectare
2.	-do-	-do-	-do-	51 Min	84 Min	231	231/1	00.09.12 0.03.88 Hectare
3.	-do-	-do-	-do-	54 Min	89 Min	232	232/1	1.5.13 0.10.36 Hectare
4.	-do-	-do-	-do-	646 Min	1064 Min	1482	1482/1	3.13.4 0.29.57 Hectare
5.	-do-	-do-	-do-	188 Min	334 Min	1483	1483/1	1.7.16 0.11.23 Hectare
6.	-do-	-do-	-do-	191 Min	343 Min	1484	Salam	0.16-0 0.06.46 Hectare
7.	-do-	-do-	-do-	187 Min	333 Min	1485	Salam	5.3.0 0.41.16 Hectare
8.	-do-	-do-	-do-	7 Min		1486	1486/1	1.6.1 0.10.52 Hectare
9.	-do-	-do-	-do-	164 Min	292 Min	1490	1490/1	1.11.5 0.12.65 Hectare
10.	-do-	-do-	-do-	164 Min	292 Min	1493	1493/1	0.13.19 0.05.63 Hectare
11.	-do-	-do-	-do-	30 Min	54 Min	1494	1494/1	1.10.19 0.12.50 Hectare
12.	-do-	-do-	-do-	207 Min	379 Min	1495	1495/1	0.19.16 0.08.00 Hectare
13.	-do-	-do-	-do-	207 Min	379 Min	1495	1495/2	0.14.0 0.05.66 Hectare
14.	-do-	-do-	-do-	203 Min	370 Min	1496	1496/1	1.4.14 0.09.98 Hectare
15.	-do-	-do-	-do-	203 Min	370 Min	1496/1	1496/1/1	0.3.13 0.01.47 Hectare
							Kita -15	24.15.09 Bigha
								02.00.16 Hectare

Total land to be acquired: 08-10-30 hectare

The acquisition of this land as appended above is urgently required to ensure the connectivity to strategically important border area of the Country which falls under the definition of acquisition required for 'defense of India/national safety' under the provisions as envisaged in section 40 of the Act, and thus it has been decided that the provisions contained in Chapter-II, Chapter-III, section 12 to 18 of Chapter-IV, Chapter-V and Chapter-VI shall not be applicable for this acquisition.

By order,

Sd/-

Principal Secretary (Revenue).

**In the Court of Sh. Sanjay Thakur, HAS, Sub-Divisional Magistrate Jaisinghpur,
Distt. Kangra, H.P.-176095**

Ex-serviceman Sh. Tarlok Chand aged 77 years s/o Sh. Kirat Singh, r/o Village Tambru,
P.O. Draman, Tehsil Jaisinghpur, Distt. Kangra (H.P.)-176095 . . Applicant.

Versus

The General Public

. . Respondent.

Issuing order for the publication in H.P. Government "Rajpatra" regarding the correct name and correct date of birth of the wife of the applicant soldier in where Headquarter record the name of his wife is inadvertent by written as Sona Devi and her date of birth is written as 09th March, 1954 which is to be rectified in Army Record as SHAKUNTALA DEVI and his date of birth is 07th September, 1955.

Ex-serviceman Sh. Tarlok Chand aged 77 years s/o Sh. Kirat Singh, r/o Village Tambru, P.O. Draman, Tehsil Jaisinghpur, Distt. Kangra (H.P.)-176095 has submitted an application for correct the name and date of birth of his wife as per the contents of application the applicant has submitted that the correct name of his wife is SHAKUNTALA DEVI instead of Sona Devi and correct date of birth of the wife of the applicant is 07th September, 1955 instead of 09th March, 1954 but her name is written as Sona Devi and the date of birth is written as 09th March, 1954 in his Army service record which is to be rectified by his office Headquarter. The applicant is advised to let his name published in the Gazette of Govt. of H.P.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this notification in the name and date of birth of applicant's wife can file the objections personally or in writing to this court on or before 17-04-2023. The objections received after 17-04-2023 would not be considered.

Issued under my hand and the seal of the court on 24th March, 2023.

Seal.

Sd/-

SH. SANJAY THAKUR, H.A.S.,
Sub-Divisional Magistrate,
Jaisinghpur, Distt. Kangra, H.P.

**समक्ष श्री बंसी राम शर्मा, सहायक समाहर्ता (द्वितीय वर्ग), तहसील ददाहू, जिला सिरमौर,
हिमाचल प्रदेश**

ब मुकद्दमा : श्री राजेन्द्र पुत्र श्री देवी राम, निवासी भाटगढ़, तहसील ददाहू, जिला सिरमौर (हि0प्र0)।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र दुरुस्ती नाम ।

श्री राजेन्द्र पुत्र श्री देवी राम, निवासी भाटगढ़, तहसील ददाहू, जिला सिरमौर (हि0प्र0) ने इस अदालत में एक आवेदन पत्र प्रस्तुत किया है कि प्रार्थी का नाम राजस्व अभिलेख मौजा भाटगढ़, में देवी दत्त दर्ज है जो गलत है जबकि प्रार्थी का नाम राजेन्द्र है जिसकी पुष्टि हेतु प्रार्थी ने अपने आवेदन के साथ आधार कार्ड की छायाप्रति, नकल परिवार की छायाप्रति तथा प्रार्थी द्वारा सत्यापित हल्फिया संलग्न किया है, जिसकी दुरुस्ती हेतु राजस्व अभिलेख मौजा भाटगढ़ में अपना नाम राजेन्द्र दर्ज करवाना चाहता है।

अतः इस नोटिस द्वारा समस्त जनता ग्राम भाटगढ़ हर आम व खास को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती राजस्व अभिलेख में दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 18-04-2023 को असालतन या वकालतन हाजिर होकर अपना एतराज पेश कर सकता है। उसके पश्चात् कोई उजर व एतराज न सुना जाएगा और नियमानुसार प्रार्थना-पत्र का निपटारा कर दिया जाएगा।

आज दिनांक 20-03-2023 को मेरे हस्ताक्षर व कार्यालय मोहर द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
(बंसी राम शर्मा),
सहायक समाहर्ता द्वितीय वर्ग,
तहसील ददाहू, जिला सिरमौर (हि0प्र0)।

समक्ष श्री बंसी राम शर्मा, सहायक समाहर्ता (द्वितीय वर्ग), तहसील ददाहू, जिला सिरमौर,
हिमाचल प्रदेश

ब मुकद्दमा : श्री भीम सिंह पुत्र श्री मोही राम, निवासी जरग, तहसील ददाहू, जिला सिरमौर (हि0प्र0)।

बनाम

आम जनता

विषय.—प्रार्थना-पत्र दुरुस्ती नाम ।

श्री भीम सिंह पुत्र श्री मोही राम, निवासी जरग, तहसील ददाहू, जिला सिरमौर (हि0प्र0) ने इस अदालत में एक आवेदन पत्र प्रस्तुत किया है कि प्रार्थी का नाम राजस्व अभिलेख मौजा जरग में भीमा सिंह दर्ज है जो गलत है जबकि प्रार्थी का नाम भीम सिंह है जिसकी पुष्टि हेतु प्रार्थी ने अपने आवेदन के साथ आधार कार्ड की छायाप्रति, नकल परिवार की छायाप्रति, विद्यालय छोड़ने का प्रमाण-पत्र तथा प्रार्थी द्वारा सत्यापित हल्फिया संलग्न किया है, जिसकी दुरुस्ती हेतु राजस्व अभिलेख मौजा जरग में अपना नाम भीम सिंह दर्ज करवाना चाहता है।

अतः इस नोटिस द्वारा समस्त जनता ग्राम जरग, हर आम व खास को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती राजस्व अभिलेख में दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 18-04-2023 को असालतन या वकालतन हाजिर होकर अपना एतराज पेश कर सकता है। उसके पश्चात् कोई उजर व एतराज न सुना जाएगा और नियमानुसार प्रार्थना-पत्र का निपटारा कर दिया जाएगा।

आज दिनांक 20-03-2023 को मेरे हस्ताक्षर व कार्यालय मोहर द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
(बंसी राम शर्मा),
सहायक समाहर्ता द्वितीय वर्ग,
तहसील ददाहू, जिला सिरमौर (हि0प्र0)।